

No. 05-492 OCT 14 2005

**In The OFFICE OF THE CLERK
Supreme Court of the United States**

NATIONAL ADVERTISING CO.,
a Delaware corporation,

Petitioner,

v.

CITY OF MIAMI,
a Florida municipal corporation,

Respondent.

**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Eleventh Circuit**

**PETITION FOR A WRIT OF CERTIORARI
AND APPENDIX
VOLUME I, PAGES 1 to 188**

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QUESTIONS PRESENTED

In *Massachusetts v. Oakes*, 491 U.S. 576 (1989), and *Osborne v. Ohio*, 495 U.S. 103, 121 (1990), a majority of the Justices agreed that an overbreadth challenge to a criminal statute is not rendered moot by an amendment limiting the statute's criminalization of protected speech. This case presents the following related questions:

1. Is a facial First Amendment challenge to a city's outdoor sign licensing ordinance rendered moot by an amendment to the ordinance even though the city continues to enforce the challenged ordinance by requiring removal of signs that violate the challenged ordinance?

2. Does an owner of outdoor signs have standing to attack on First Amendment grounds parts of an ordinance that have not been applied to it where those provisions are inextricably intertwined with other provisions of the ordinance that were applied to require removal of the owner's signs?

**PARTIES TO THE PROCEEDING AND
CORPORATE DISCLOSURE STATEMENT**

The parties to the proceeding in the court whose judgment is sought to be reviewed are listed in the caption. National Advertising Co. is wholly owned by Viacom Outdoor, Inc. which is wholly owned by Viacom, Inc. Therefore, there is no parent or publicly held company owning 10% or more of National Advertising Co.'s stock.

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED	i
PARTIES TO THE PROCEEDING AND CORPORATE DISCLOSURE STATEMENT	ii
TABLE OF CONTENTS	iii
TABLE OF AUTHORITIES	iv
INTRODUCTION	1
CITATIONS OF THE OPINIONS AND ORDERS IN THE CASE	2
JURISDICTION	2
CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED	3
STATEMENT OF THE CASE	3
REASONS FOR GRANTING THE WRIT	13
I. The Eleventh Circuit and Other Federal Circuits Repeatedly Have Overlooked the Majority Opinion in <i>Oakes</i> and <i>Osborne</i>	13
II. The Decision Conflicts with Decisions of this Court and Other Courts of Appeals Regarding Standing to Challenge an Entire Ordinance Due to Inextricably Intertwined Constitutional Defects	24
CONCLUSION	28

TABLE OF AUTHORITIES

	Page
CASES	
<i>Action Outdoor Advertising JV, L.L.C. v. City of Destin, Fla.</i> , No. 3:03cv426/MCR, WL 2338804 (N.D. Fla. 2005)	23
<i>Action Outdoor Advertising JV, L.L.C. v. Town of Cinco Bayou, Fla.</i> , 363 F. Supp. 2d 1321 (N.D. Fla. 2005)	23
<i>Action Outdoor Advertising JV, L.L.C. v. Town of Shalimar, Fla.</i> , 377 F. Supp. 2d 1178 (N.D. Fla. 2005)	27
<i>ADvantage Advertising, L.L.C. v. City of Pelham</i> , No. CV 02-P-2017-S, 2004 WL 3362497 (N.D. Ala. Sept. 10, 2004)	23
<i>American Legion Post 7 v. City of Durham</i> , 239 F.3d 601 (4th Cir. 2001)	20
<i>Bigelow v. Virginia</i> , 421 U.S. 809 (1975)	17
<i>Cafe Erotica of Florida, Inc. v. St. John's County</i> , 360 F.3d 1274 (11th Cir. 2004)	25, 26
<i>City of Littleton v. Z.J. Gifts D-4, L.L.C.</i> , 541 U.S. 774 (2004)	24, 26
<i>Commonwealth of Massachusetts v. Oakes</i> , 551 N.E.2d 910 (1990)	21
<i>Commonwealth of Massachusetts v. Provost</i> , 636 N.E.2d 1312 (1994)	21
<i>Coral Springs Street Systems, Inc. v. City of Sunrise</i> , 371 F.3d 1320 (11th Cir. 2004)	passim
<i>Crown Media, L.L.C. v. Gwinnett County, Ga.</i> , 380 F.3d 1317 (11th Cir. 2004)	19

TABLE OF AUTHORITIES – Continued

	Page
<i>Desert Outdoor Advertising Inc. v. City of Moreno Valley</i> , 103 F.3d 814 (9th Cir. 1996)	25
<i>Federation of Advertising Industry Representatives, Inc. v. City of Chicago</i> , 326 F.3d 924 (7th Cir. 2003)	20
<i>Forsyth County v. Nationalist Movement</i> , 505 U.S. 123 (1992)	18
<i>Granite State Outdoor Advertising, Inc. v. City of St. Petersburg</i> , 348 F.3d 1278 (11th Cir. 2003)	26
<i>Granite State Outdoor Advertising, Inc. v. City of Clearwater</i> , 351 F.3d 1112 (11th Cir. 2003).....	25, 27
<i>Granite State Outdoor Advertising, Inc. v. City of St. Pete Beach, Fla.</i> , 322 F. Supp. 2d 1335 (M.D. Fla. 2004).....	27
<i>Grutter v. Bollinger</i> , 539 U.S. 306 (2003)	15
<i>Harrison & Burrowes Bridge Constructors, Inc. v. Cuomo</i> , 981 F.2d 50 (2d Cir. 1992)	21
<i>Junction 615, Inc. v. Ohio Liquor Control Commission</i> , 732 N.E.2d 1025 (Ohio. App. 1999)	21
<i>KH Outdoor L.L.C. v. City of Trussville, Ala.</i> , 366 F. Supp. 2d 1142 (N.D. Ala. April 27, 2005)	26, 27
<i>Kentucky Right to Life, Inc. v. Terry</i> , 108 F.3d 637 (6th Cir. 1997).....	20
<i>Kraimer v. City of Schofield</i> , 342 F. Supp. 2d 807 (W.D. Wisc. 2004).....	22
<i>Kremens v. Bartley</i> , 431 U.S. 119 (1977).....	
<i>Lamar Advertising Co. v. Township of Elmira</i> , 328 F. Supp. 2d 725 (E.D. Mich. 2004).....	22

TABLE OF AUTHORITIES – Continued

	Page
<i>Lamar Advertising of Penn, L.L.C. v. Town of Orchard Park, N.Y.</i> , 356 F.3d 365 (2d Cir. 2004)	21, 25
<i>Lewis v. Continental Bank Corp.</i> , 494 U.S. 472 (1990)	21, 25
<i>Marks v. United States</i> , 430 U.S. 188 (1977)	15
<i>Martin v. Commonwealth of Kentucky</i> , 96 S.W.3d 38 (Ky. 2003)	15
<i>Massachusetts v. Oakes</i> , 491 U.S. 576 (1989)	passim
<i>MediaNet of South Florida, Inc. v. City of North Miami</i> , No. 04-20892-Civ-Jordan (S.D. Fla. July 1, 2005)	22
<i>Members of the City Council of the City of Los Angeles v. Taxpayers for Vincent</i> , 466 U.S. 789 (1984)	18
<i>Metromedia, Inc. v. City of San Diego</i> , 453 U.S. 490 (1981)	7, 18, 24, 26
<i>Miller v. California</i> , 413 U.S. 15 (1973)	16
<i>National Advertising Co. v. City of Fort Lauderdale</i> , 8 F.3d 36 (11th Cir. Oct. 26, 1993) (table)	18
<i>National Advertising Co. v. City of Fort Lauderdale</i> , 934 F.2d 283 (11th Cir. 1991)	26
<i>National Advertising Co. v. City of Miami</i> , 287 F. Supp. 2d 1349 (S.D. Fla. 2003), <i>rev'd</i> , 402 F.3d 1329 (11th Cir. 2005)	2
<i>National Advertising Co. v. City of Miami</i> , 402 F.3d 1329 (11th Cir. 2005)	12
<i>National Advertising Co. v. Town of Babylon</i> , 900 F.2d 551 (2d Cir. 1990)	25

TABLE OF AUTHORITIES – Continued

	Page
<i>National Advertising Co. v. Town of Niagara</i> , 942 F.2d 145 (2d Cir. 1991)	25
<i>Nichols v. United States</i> , 511 U.S. 738 (1994)	15
<i>Odle v. Decatur County, Tenn.</i> , 421 F.3d 386 (6th Cir. 2005)	25
<i>Osborne v. Ohio</i> , 495 U.S. 103 (1990)	<i>passim</i>
<i>Payne v. Tennessee</i> , 501 U.S. 808 (1991)	16
<i>Ruff v. City of Leavenworth, Kan.</i> , 858 F. Supp. 1546 (D. Kan. 1994)	22
<i>Seay Outdoor Advertising, Inc. v. City of Mary Esther, Fla.</i> , 397 F.3d 943 (11th Cir. 2005)	19, 27
<i>Solantic L.L.C. v. City of Neptune Beach</i> , 410 F.3d 1250 (11th Cir. 2005)	25
<i>Stephenson v. Devenport Community School Dis- trict</i> , 110 F.3d 1303 (8th Cir. 1996)	19
<i>Tanner Advertising Co. v. Fayette County, Ga.</i> , 411 F.3d 1272 (11th Cir. 2005)	18, 24, 25, 26
<i>Thornhill v. Alabama</i> , 310 U.S. 88 (1940)	18

CONSTITUTION

U.S. Const. amend. I	<i>passim</i>
U.S. Const. amend. XIV	<i>passim</i>

STATUTE

28 U.S.C. § 1254(1)	2
---------------------------	---

TABLE OF AUTHORITIES – Continued

Page

MISCELLANEOUS

Richard H. Fallon, Jr., <i>Making Sense of Overbreadth</i> , 100 YALE L.J. 853 (1991)	16
Tim Moran, <i>First Amendment Overbreadth Doctrine – Massachusetts v. Oakes</i> , 109 S. Ct. 2633 (1989), 25 HARV. CIV. RTS.-CIV. LIBS. L. REV. 221 (1990)	16

INTRODUCTION

This petition seeks review of a decision of the Eleventh Circuit Court of Appeals holding that the City of Miami's amendment of an ordinance regulating outdoor advertising signs mooted a First Amendment challenge brought by National Advertising Company despite the fact that the City is continuing enforcement proceedings under the original ordinance to compel removal of 40 National outdoor advertising signs.

The Eleventh Circuit's decision rests on the mootness analysis of a plurality opinion of this Court in *Massachusetts v. Oakes*, 491 U.S. 576 (1989), which was expressly rejected by a majority of the Court in *Oakes*. Unfortunately, the Eleventh Circuit's reading of the *Oakes* opinion is not an aberration. In addition to the four separate occasions on which the Eleventh Circuit has ignored the majority opinion in *Oakes*, five other federal courts of appeals have done the same. Indeed, several federal district judges, at least one state supreme court, and noted constitutional scholars all have recognized that federal appellate courts have failed to follow the rule established by the *Oakes* majority. The Court should overrule the Eleventh Circuit's decision so that facial challenges to blatantly unconstitutional regulations of constitutionally protected speech cannot forever be avoided by tactical amendments improvised by municipalities to nullify litigation. To do otherwise would send a clear signal that the rule of law can be avoided by adjustments to legislation which do not pretend to correct, much less actually correct, fatal constitutional weaknesses that plagued the legislation in the first place.

Further, the decision, in derogation of opinions of this Court and other circuits, denies National standing to make a facial attack on provisions of the ordinance not directly applied to it, but integral to the ordinance nonetheless. The Eleventh Circuit's ruling fosters piecemeal litigation and ignores the fact that a successful assault on the constitutionality of the ordinance will yield the same result: invalidating the entire ordinance, including the provisions that were applied.

**CITATIONS OF THE OPINIONS
AND ORDERS IN THE CASE**

National Advertising Co. v. City of Miami, 287 F. Supp. 2d 1349 (S.D. Fla. Sept. 25, 2003) (App. 16), *rev'd*, 402 F.3d 1329 (11th Cir. Mar. 21, 2005) (App. 1).

JURISDICTION

The United States Court of Appeals for the Eleventh Circuit issued a decision in this case on March 21, 2005. (App. 1). National filed a timely petition for rehearing or rehearing en banc on April 11, 2005. The Eleventh Circuit denied the petition on May 17, 2005. (App. 104). Justice Kennedy granted National through Friday, October 14, 2005, to file this petition. This Court has jurisdiction to review the judgment of the Eleventh Circuit Court of Appeals pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

U.S. Const. amends. I and XIV (App. 106); all sections of the City of Miami Zoning Ordinance 11,000, as it existed when National filed its complaint below, that regulate outdoor advertising signs (App. 107); and City of Miami ordinances amending Ordinance 11,000, as of April 11, 2002 (App. 189).

STATEMENT OF THE CASE

National is a subsidiary of Viacom Outdoor, Inc., the largest outdoor advertising company in the United States. (D2/9/1-3).¹ National operates more than 40 outdoor advertising signs in the City of Miami (D2/9/5), each of which is located on private property leased by National. (D2/9/6). When National leases private property, it obtains the right to erect and maintain outdoor advertising signs containing commercial and noncommercial messages. (D1/59/18) (D2/9/6). National's signs are available to advertisers for commercial and noncommercial messages. (D2/9/7). National itself displays noncommercial messages on its signs in the City as well. (D35/22/33 & Ex. 18) (D1/9/Ex. 3-5).

¹ In the Eleventh Circuit Court of Appeals, appeals from district courts are taken on the original record without an appendix. See 11th Cir. R. 30-1. Here, the district court consolidated two cases below but entered separate final judgments in each case, and therefore citations to the record are to the district court dockets in both cases. References to No. 01-CV-3039 are by "(D1/_/_)". References to No. 02-CV-20556 are by "(D2/_/_)".

The City's Sign Code Was Filled with Constitutional Defects

In 1990, the City adopted Ordinance 11,000, a general zoning ordinance that included various provisions regulating outdoor advertising, which National has referred to in this litigation as the City's "Sign Code." (App. 107). Many of National's signs were not in conformance with the Sign Code and, under the terms of the ordinance, such signs were required to be removed within five years. (App. 177).

The Sign Code specified that "all signs shall require permits," other than those specifically exempted from this requirement, but nonetheless failed to set forth any criteria or procedures for obtaining a sign permit. (App. 153). Specifically, by example, the Sign Code failed to identify the information or documents required for an applicant to request a sign permit; failed to specify which, if any, city officials had authority to grant or deny an application for a sign permit; and failed to indicate whether review was available for the denial of any permit application and, if so, what procedures must be followed for such review. The Sign Code likewise imposed no limitations on the time allotted for the City to review a permit application, imposed no burden on the City to justify the denial of a permit, and provided no assurance that a permit denial would be judicially reviewed promptly.

Not all signs, however, were required to comply with this standardless licensing scheme. The Sign Code exempted many signs on the basis of their content, including: (1) government signs; (2) national flags and flags of political subdivisions; (3) decorative signs related to unspecified "official holidays" or other unspecified events

"authorized by the city commission"; (4) certain symbolic, award or house flags; (5) address, notice and directional signs; warning signs; (6) signs posted on community or neighborhood bulletin boards and kiosks; (7) temporary civic campaign signs; (8) temporary political campaign signs; (9) memorials; (10) weather flags; (11) church signs; and (12) freestanding perimeter wall signs identifying a development. (App. 153-61).

The Sign Code also imposed broad prohibitions against offsite signs. The Sign Code stated that in the commercial zones in which National operates many of its signs, "Onsite signs only shall be permitted." (App. 118). An "Onsite sign" must "relat[e] in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises." (App. 184). Thus, a grocery store is permitted to build and operate a sign advertising Coca-Cola, but that same sign may not be used to advocate the election of a new mayor. Without basis or rationale, the Sign Code singled out outdoor advertising companies² for different treatment than other outdoor advertisers and made clear that those in the outdoor advertising business could not use such signs for their own commercial or noncommercial purposes: "Onsite signs shall not be construed to include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business." (App. 184).

² The Code defined the "Outdoor advertising business" as "An establishment which provides outdoor displays or display space on a lease or rental basis for general advertising and not primarily or necessarily for advertising related to the premises on which erected." (App. 180).

The Sign Code also exempted many signs – such as “temporary civic and political campaign signs” – from the offsite prohibitions on the basis of their content. (App. 120). Inexplicably, the temporary civic campaign and political sign exemptions to the sign permit requirement and the offsite sign prohibitions were not available to “outdoor advertising” companies. (App. 156-57).

Many of the exemptions to the permitting requirement, the offsite prohibition, and the size, height, and numerical restrictions were extremely vague. For example, section 925.3.3 exempted “decorative signs” and empowered the city commission with unbridled discretion to designate signs related to any “celebrations, conventions, or commemorations” as eligible for exemption from permitting for any period of time specified by the commission. (App. 154). Section 925.3.4 exempted “symbolic” flags from permitting and section 2502 defined that term circularly, as “Flags . . . identifying institutions or establishments symbolically.” (App. 154). The effect of such vague, content-based provisions was to allow the City to disregard the size, height, placement, permitting, and other requirements that it imposed on signs whenever it wished to do so based on the signs’ content.

Indisputably, however, it was and is the content requirements of the Sign Code that determined whether a permit would be issued for a particular sign. (D1/110-Ex.9-57).

The City Enforces its Sign Code to Compel Removal of Signs

In spring 2001, the City of Miami began to enforce its Sign Code against private property owners who had

allowed National to use their property for outdoor advertising signs that did not conform with the City's Sign Code. (D1/9-Ex.3-11). The City asserted that National's signs advertising offsite goods and services stood on private property in the City's C-1 zones, which was prohibited under the Sign Code and, therefore, the Sign Code required removal of all nonconforming signs within five years of the adoption of Ordinance 11,000. Because more than five years had elapsed since the signs became nonconforming, the City sought the removal of National's signs.

National commenced this action in July 2001, seeking a declaration that the City's Sign Code was void and an injunction prohibiting the City from enforcing the Sign Code, relying upon the rationale of *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490 (1981) (plurality), and appellate court decisions applying the principles established in *Metromedia*.

The City Amends its Sign Code but Continues to Enforce the Old Code

Nine months after National filed suit, the City amended its Sign Code. (App. 189-504). The City concedes that it did not begin any revisions to the Sign Code until some months after National sued the City (D2/35/54) and that its changes were tailored to correct some of the constitutional deficiencies identified in National's complaint. (D2/35/54).

For instance, the City added a provision that allowed noncommercial messages to be placed on commercial signs (D2/35/55), and adopted some criteria for the issuance of permits. (D2/35/56). Notwithstanding the City's attempt to

circumvent National's lawsuit, the Revised Sign Code still failed to specify all the information an applicant was required to submit to the City to obtain a permit and was devoid of any language mandating that a permit be granted where an applicant demonstrated that a proposed sign met discernible criteria. Instead, it directed applicants to submit certain specific information "at a minimum," leaving it to unidentified City officials to require additional, indeterminate information, in their unbridled discretion, and further provided that a "sign permit may be approved . . . if the criteria set forth . . . has [sic] been met, all other necessary approvals, if any, have been obtained and all required fees have been paid." (App. 295, 296). The Revised Sign Code did not place any time limits on the City for acting on an application, require any justification or explanation by the City for the denial of an application, or even provide for prompt judicial review of a denial.

Moreover, the Revised Sign Code failed to eliminate the discrimination in favor of government signs, national flags, weather flags, addresses, notices, directions, warnings, memorials, symbolic flags, decorations for "community-wide celebrations, conventions, or commemorations . . . when authorized by the city commission," construction and development signs, real estate signs, political signs, or church signs or even eliminate the prohibitions against offsite signs or the exemptions thereto. The Revised Sign Code likewise failed to remove the provision allowing for disparate treatment of signs displayed by the outdoor advertising industry. Instead, it banned the construction of any new outdoor advertising signs and repealed unspecified provisions of the Sign Code "inconsistent with any provision contained in this article." (App. 316-17).

Even after the City amended the Sign Code, the very provisions of the old code attacked by National in the litigation remained in full force and effect, requiring the removal of National's signs. That is because the Revised Sign Code specified that nothing in it "shall affect those provisions of section 926.15 requiring the termination and removal of freestanding outdoor advertising signs from the premises on which they were located not later than five (5) years following the date they became nonconforming as a result of the passage of Ordinance No. 11000 in 1990, and such provisions shall continue to be operative and given full force and effect." (App. 464). In other words, signs such as National's that were non-conforming under the old Sign Code prior to the 2002 amendments were still required to be removed. Importantly, the City continued its efforts to force National to remove its nonconforming signs.

The amendments also provided that any sign that became nonconforming as a result of the City's passage of the amendments "shall be removed within five (5) years after the effective date of said Ordinance [April 11, 2002]." (App. 463). Thus, if the Sign Code as it existed prior to its amendment were declared void and unenforceable, the amended Sign Code would not require removal of any sign until April 11, 2007.

The parties filed cross motions for summary judgment (D1/110-19), and the district court heard oral argument on August 27, 2003. (D1/161). The City offered no evidence to support its contention that aesthetic or traffic safety concerns or any other content-neutral interests justified its sign regulations. The district court granted the City's motion and denied National's motion (D1/160). Final judgment was entered on September 25, 2003. (D1/159).

**The District Judge Properly Holds
the Amendment Did Not Moot the Case**

The district court acknowledged that a city cannot escape overbreadth review simply by amending its ordinance, citing *Massachusetts v. Oakes*, 491 U.S. 576, 586 (1989) (App. 35 at n.36), but nevertheless held that National did not have standing to make a facial attack on aspects of Ordinance 11,000 governing noncommercial speech because only two percent of the messages on National's signs were noncommercial. The district court also found there was no evidence that anyone had petitioned to put up a noncommercial message or that the City denied such a petition, and that amendment of the Sign Code eliminated the threat that it would chill future speech. (App. 32-39).

Notwithstanding its conclusion that National lacked standing, the district court proceeded to analyze whether the Sign Code was content-based or content-neutral and whether it discriminated against certain commercial and noncommercial speech. (App. 39-70). The district court also considered whether the Sign Code lacked procedural safeguards to prevent censorship, and ultimately concluded that different types of content discrimination could be upheld under various theories and that the lack of procedural safeguards presented no risk of censorship because "the Ordinance at issue is a content-neutral zoning regulation that regulates structures, not speech." (App. 71).

The Eleventh Circuit Holds the Amendment Mooted the Case

The Eleventh Circuit reversed the district court's ruling and held that the City's amendment of the Sign Code more than nine months after National brought suit mooted National's facial attack on the Sign Code. The Eleventh Circuit stated "the Supreme Court has many times held that amendments or revocation of challenged legislation renders the lawsuit moot and deprives the court of jurisdiction." (App. 8). Rather than conducting its own mootness analysis, the Court observed that in a prior decision, *Coral Springs Street Systems, Inc. v. City of Sunrise*, 371 F.3d 1320 (11th Cir. 2004), it had "cataloged many of the Supreme Court decisions on this subject." (App. 8 n.5). In *Coral Springs*, however, the Eleventh Circuit cited only a single First Amendment overbreadth challenge in which the plaintiff had no other grounds for relief – *Massachusetts v. Oakes*, 491 U.S. 576, 582-83 (1989) – and the court's parenthetical erroneously described *Oakes* as "holding that an overbreadth challenge to a child pornography law was rendered moot by amendment to the statute." (App. 8 n.5).

The Eleventh Circuit here also rejected National's argument that the City should not be allowed to escape adjudication of its claim by voluntary cessation of enforcement of the challenged Sign Code, holding "cases are legion from this and other courts where the repeal of an allegedly unconstitutional statute was sufficient to moot litigation challenging the statute." (App. 10). Thus, the court reasoned that even if the City had amended its Sign Code solely to avoid the adjudication of the facial challenge, the facial challenge would be moot, because "[t]he City's purpose in amending the statute is not the central

focus of our inquiry nor is it dispositive of our decision.” (App. 11).

Further, although the Eleventh Circuit found that the City had changed some of the constitutional deficiencies that National identified in the original Sign Code (App. 12), it declined to address whether the changes brought the ordinance into compliance with the First Amendment. It similarly declined to decide whether the Sign Code lacked procedural safeguards to prevent its misuse for censorship. The Court characterized the facial attack on the lack of procedural safeguards as “misplaced in this appeal,” and indicated that it would address the argument in a companion appeal from the City’s denial of National’s application for permits under the original Sign Code. (App. 11 n.7).

In the companion appeal that was decided the same day – *National Advertising Co. v. City of Miami*, 402 F.3d 1335 (11th Cir. 2005) – the Eleventh Circuit failed to address whether the Sign Code was facially defective for lack of procedural safeguards, as it indicated it would. (App. 74). Instead, the panel held National’s facial challenge was not ripe because National had not exhausted administrative remedies the City claimed existed. (App. 82). It reached this conclusion despite the fact that the City never disputed that the Sign Code required denial of National’s permit applications, that pursuit of administrative remedies would have been futile, or that the Sign Code imposed no time limits on processing applications for permits.

Finally, the Eleventh Circuit held “because this case is a facial challenge to Miami’s zoning ordinance, we need not address any issues related to whether National had

acquired any vested rights prior to the amendments which mooted this claim. *Cf. Coral Springs*, 371 F.3d at 1333-1342.³ (App. 12 at n.7).

REASONS FOR GRANTING THE WRIT

I.

The Eleventh Circuit and Other Federal Circuits Repeatedly Have Overlooked the Majority Opinion in *Oakes* and *Osborne*

In 2001, the City of Miami began to compel removal of long-standing, lawfully-constructed signs rendered non-conforming by amendments to the Sign Code in 1990, which amendments had not previously been enforced. When National challenged the constitutionality of the Sign Code by filing a complaint for declaratory and injunctive relief in July 2001, the City vigorously defended its code as constitutional. In addition, the City instituted enforcement proceedings against private property owners on whose properties the non-conforming signs were located. While continuing to vigorously pursue enforcement proceedings under the original Sign Code, the City embarked on a parallel strategy hoping to thwart National's constitutional challenge – move the target of the suit by amending

³ In *Coral Springs*, the Eleventh Circuit held that an outdoor advertising company could acquire a vested right to display a sign on private property if it applied for a permit to build the sign when the city had no valid ordinance in place prohibiting construction of the sign. The decision further held that the sign company's rights would vest even if the City *hastily* cured constitutional defect in its Sign Code to prevent rights from vesting, but that the sign company's rights would not vest if the City *promptly* acted to cure the same defects.

its code, albeit after the fact. Because it took these steps contemporaneously, the City still sought removal of National's non-conforming signs under the original Sign Code and relentlessly defended its original Sign Code in this litigation. The conduct of the City is a quintessential example of that expressly prohibited by this Court in its prior decisions.

Indeed, a majority of this Court has recognized on more than one occasion that constitutionally protected speech may be chilled if legislators are allowed to enact an overly broad statute, sit back and wait to see if anyone would challenge it, and then revise the law only after its constitutionality is challenged to avoid invalidation by the judiciary. In both *Massachusetts v. Oakes*, 491 U.S. 576 (1989), and *Osborne v. Ohio*, 495 U.S. 103 (1990), a majority of this Court agreed that a legislative amendment could not moot a First Amendment overbreadth attack on such legislation. In *Oakes*, Justice Scalia, joined by Justices Blackmun, Brennan, Marshall, and Stevens, rejected the contrary view of the plurality and explained that the challenge in that case was not mooted by the amendment because "[t]he overbreadth doctrine serves to protect constitutionally legitimate speech not merely ex post, that is, after the offending statute is enacted, but also ex ante, that is when the legislature is contemplating what sort of statute to enact. If the promulgation of overbroad laws affecting speech were cost free . . . then legislatures would have significantly reduced incentive to stay within constitutional bounds in the first place. When one takes account of those overbroad statutes that are never challenged, and of the time that elapses before the ones that are challenged are amended to come within constitutional bounds,

a substantial amount of legitimate speech would be 'chilled.'" *Oakes*, 491 U.S. at 586 (Scalia, J.).

Justice Brennan wrote separately to explain: "I join Part I of Justice SCALIA's opinion holding that a defendant's overbreadth challenge cannot be rendered moot by narrowing the statute after the conduct for which he has been indicted occurred – the only proposition to which five members of the Court have subscribed in this case." *Oakes*, 491 U.S. 591 n.1 (Brennan, J., dissenting) (emphasis added).⁴

⁴ The position of the *Oakes* majority is the holding of the Court, although it is only one of two rationales that explain the judgment, because it received five votes, and the competing rationale of the four-justice plurality was explicitly rejected by the majority. *Oakes* reviewed a decision holding a criminal statute facially unconstitutional. Four justices voted for reversal on the theory that an amendment to the statute mooted the facial challenge. Five other justices rejected that rationale, concluding that the facial challenge was not moot. Two of those five, Justices Scalia and Blackmun, found the statute invalid and therefore joined in the plurality's decision to reverse the judgment below. Justice Scalia's opinion that the controversy was not moot was critical to his concurrence in the judgment because he could not have reached the merits of the statute without first concluding that the controversy was not moot, and that part of his opinion finding a non-moot controversy was joined by five justices. This Court has held that "When a fragmented Court decides a case and no single rationale explaining the result enjoys the assent of five Justices, 'the holding of the Court may be viewed as that position taken by those Members who concurred in the judgments on the narrowest grounds. . . .'" *Marks v. United States*, 430 U.S. 188, 193 (1977) (emphasis added) (quoting *Gregg v. Georgia*, 428 U.S. 153, 169 n.15 (1976) (Stewart, Powell, and Stevens, JJ.)). Here, five justices did assent to a part of one of the rationales for reversal, and it therefore is a holding of the Court. The *Marks* test on several occasions has been found to be "'more easily stated than applied'" *Grutter v. Bollinger*, 539 U.S. 306, 325 (2003) (quoting *Nichols v. United States*, 511 U.S. 738, 745-46 (1994)), however, and the Court therefore has held "confusion following a splintered decision . . . is itself a reason for reexamining that decision." *Nichols*,

In *Osborne*, Justice White, who previously sided with Justice O'Connor's plurality decision in *Oakes*, reiterated that "five of the *Oakes* Justices feared that if we allowed a legislature to correct its mistakes without paying for them (beyond the mere inconvenience of passing a new law), we would decrease the legislature's incentive to draft a narrowly tailored law in the first place." *Osborne*, 495 U.S. at 121. The Court explained that this constitutional rule is essential to prevent legislators from writing overbroad laws "without significant cost." *Id.* "Legislators who know they can cure their own mistakes by amendment without significant cost may not be as careful to avoid drafting overbroad statutes as they might otherwise be."⁵ *Id.*

Significantly, the opinion of Justice Scalia in *Oakes* did not rely on any threat that Massachusetts would reenact the law at issue. Indeed, Justice O'Connor made clear that there was no such possibility: "[T]his case is indistinguishable," she noted for the plurality in *Oakes*,

511 U.S. at 746; see also *Payne v. Tennessee*, 501 U.S. 808, 829-30 (1991); *Miller v. California*, 413 U.S. 15, 24-25 (1973).

⁵ See also Richard H. Fallon, Jr., *Making Sense of Overbreadth*, 100 YALE L.J. 853, 892 (1991) (suggesting the Court has considerable discretion in shaping relief when a statute is found to be overbroad but concluding that "some reasonably heavy price must be exacted if the threat of invalidation is to create significant incentives for state legislatures to enact precisely drawn statutes and for state courts, where necessary, to supply narrowing constructions"); Tim Moran, *First Amendment Overbreadth Doctrine - Massachusetts v. Oakes*, 109 S. Ct. 2633 (1989), 25 HARV. CIV. RTS.-CIV. LIBS. L. REV. 221, 236 (1990) ("For the majority in *Oakes*, it did not matter that the old Massachusetts statute would no longer chill protected speech, and that any past damage could not be remedied by a retrospective ruling. Rather, the interest in restraining an overreaching legislature in the future was paramount.").

"from that in *Bigelow* [*v. Virginia*, 421 U.S. 809 (1975)]," a case where the Court found that "there is no possibility now that the statute's pre-1972 form will be applied again to appellant or will chill the rights of others." *Id.* at 817-18. The Eleventh Circuit has failed to appreciate that under the holding of the *Oakes* majority, it does not matter whether there is any likelihood of the specific challenged legislation being reenacted, nor does it matter whether the municipality acted in "good faith" or "bad faith" when it amended the legislation. Rather, the critical issue is how to *deter* the government from enacting unconstitutional legislation in the first place.

Applying the majority's decision in *Oakes*, it is plainly evident that the City of Miami's amendment of its Sign Code could not moot National's overbreadth challenge under the facts presented. The Sign Code was void when enacted and, thus, was void when the City sought to enforce it against property owners who allowed National to use their property for outdoor advertising signs, just as the law in *Oakes* was void when enacted and void when the defendant in that case was charged with violating it. For the same reasons, the City's amendment of its Sign Code *after* National filed this lawsuit could no more moot National's overbreadth challenge than the Massachusetts' amendment of its criminal law could moot *Oakes*' challenge to the law he was charged with violating. In either case mootness would allow the government to maintain a void law on its books without an associated cost.

The "cost" of facial invalidation discussed in *Oakes* is the invalidation of criminal convictions obtained under overbroad laws. The "cost" of facial invalidation in the instant case would be a declaration that the City's Sign

Code was unenforceable and, if necessary, an injunction against continued enforcement of the Sign Code.⁶ It is wholly irrelevant that *Oakes* involved the application of a criminal statute as the result does not turn, in any way, on the nature of the statute, but, rather, is contingent only on the specific conduct of the government entity in enacting a law that was unconstitutional at the outset.

The district court understood that cities may not escape facial challenges through the simple expedient of a last-minute amendment to a challenged ordinance.⁷ But

⁶ The Eleventh Circuit previously has ordered declaratory relief against an ordinance regulating outdoor advertising that has been amended in *National Advertising Co. v. City of Fort Lauderdale*, 8 F.3d 36 (11th Cir. Oct. 26, 1993) (table); see also *Coral Springs Street Sys., Inc. v. City of Sunrise*, 371 F.3d 1320, 1333-42 (11th Cir. 2004) (holding that if ordinance under which plaintiff seeks a permit is facially invalidated, plaintiff may have a vested right to display the sign).

⁷ The district court found that National lacked standing to mount a facial challenge because (1) National did not engage in enough non-commercial speech itself, and (2) there was no evidence that the City actually stopped anyone from posting a sign that the City could not constitutionally prohibit, but this reasoning was flawed. The *Metromedia* plurality itself held that commercial sign companies have standing to attack noncommercial regulations that are embedded in a city-wide ordinance regulating outdoor advertising. *Metromedia*, 453 U.S. at 504-05 & n.11; *Tanner Adver. Co. v. Fayette County, Ga.*, 411 F.3d 1272, 1276 (11th Cir. June 9, 2005). This Court has held that the very existence of some broadly written statutes may have such a deterrent effect on free expression that they should be subject to challenge even by a party whose own conduct may be unprotected. *Thornhill v. Alabama*, 310 U.S. 88, 97-98 (1940). A finding of overbreadth is predicated on a "judicial prediction or assumption that the statute's very existence may cause others not before the court to refrain from constitutionally protected speech." *Members of the City Council of the City of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 798 (1984); see also *Forsyth County v. Nationalist Movement*, 505 U.S. 123, 129 (1992) ("the very existence of some broadly written laws has the potential to chill the expressive activity of others not before the court").

when that issue came to the Eleventh Circuit, it reversed the district court's judgment on that point by following the *Oakes* plurality, rather than the *Oakes* majority. As noted above, the Eleventh Circuit erroneously cited the *Oakes* plurality as "holding that an overbreadth challenge to a child pornography law was rendered moot by amendment to the statute." App. at 8 n.5.

This was not the first time the Eleventh Circuit misapplied *Oakes*, either. The Eleventh Circuit made the same error three times earlier, in *Seay Outdoor Advertising, Inc. v. City of Mary Esther, Fla.*, 397 F.3d 943 (11th Cir. Jan. 14, 2005), *Crown Media, L.L.C. v. Gwinnett County, Ga.*, 380 F.3d 1317 (11th Cir. Aug. 12, 2004), and *Coral Springs Street Systems, Inc. v. City of Sunrise*, 371 F.3d 1320, 1329 (11th Cir. June 7, 2004). Two of those decisions, *City of Sunrise* and *City of Mary Esther*, expressly referenced and relied on the *Oakes* plurality to conclude that a facial challenge to an outdoor advertising ordinance was mooted by a city's amendment of the ordinance. While the *Gwinnett County* case did not itself miscite *Oakes*, it relied on that part of the *City of Sunrise* decision that did.

The Eleventh Circuit is not alone in its misapplication of *Oakes*. No fewer than five other circuits have misinterpreted *Oakes* in the same way and have disregarded *Osborne* altogether. The Eighth Circuit was the first federal circuit to treat the *Oakes* plurality opinion, rather than the majority opinion, as the holding of the Court. See *Stephenson v. Davenport Cmty. Sch. Dist.*, 110 F.3d 1303, 1312 (8th Cir. 1996). That court, citing the *Oakes* plurality, held that a facial challenge of a school district regulation prohibiting gang symbols had been mooted by the school district's amendment of its regulation. *Id.*

Next, the Sixth Circuit in *Kentucky Right to Life, Inc. v. Terry*, 108 F.3d 637, 644 (6th Cir. 1997), despite its recognition that only a plurality in *Oakes* believed that a facial challenge was moot, still chose to follow the plurality rather than the majority, holding "overbreadth challenges to statutes become moot when the challenged language is effectively nullified by subsequent statutory amendment." The Kentucky Supreme Court pointed out in *Martin v. Commonwealth of Kentucky*, 96 S.W.3d 38 (Ky. 2003), that:

The Commonwealth and the Sixth Circuit's opinion rely on Justice O'Connor's plurality opinion in *Oakes*. . . . However, that opinion was joined by only three other members of the Court with respect to that issue. The separate opinions of Justice Scalia (joined by Blackmun, J.) and Justice Brennan (joined by Marshall and Stevens, JJ.) both would have held that an intervening repeal of a facially overbroad statute does not moot an overbreadth challenge by one who stands convicted under the statute.

96 S.W.3d at 52-53 (internal citations omitted). Nevertheless, the Sixth Circuit has never retreated from its interpretation of *Oakes*.

The Fourth Circuit misread *Oakes* and ignored *Osborne* in *American Legion Post 7 v. City of Durham*, 239 F.3d 601, 606 (4th Cir. 2001), citing *Oakes* as "holding that the amendment of a law . . . mooted First Amendment overbreadth challenge to statute."

The Seventh Circuit likewise erred in *Federation of Advertising Industry Representatives, Inc. v. City of Chicago*, 326 F.3d 924, 930 (7th Cir. 2003), citing *Oakes* for the proposition that "repeal, expiration, or significant amendment to challenged legislation ends the ongoing

controversy and renders moot a plaintiff's request for injunctive relief," when in fact the *Oakes* majority reached the opposite conclusion in cases involving First Amendment overbreadth challenges.

In *Lamar Advertising of Penn, L.L.C. v. Town of Orchard Park, N.Y.*, 356 F.3d 365, 376 (2d Cir. 2004), the Second Circuit replicated this mistake, holding in a First Amendment overbreadth case "that '[c]onstitutional challenges to statutes are routinely found moot when a statute is amended.' [*Harrison & Burrowes Bridge Constructors, Inc. v. Cuomo*, 981 F.2d 50, 61 (2d Cir. 1992)] (citing *Massachusetts v. Oakes*, 491 U.S. 576, 582, 109 S.Ct. 2633, 105 L.Ed.2d 493 (1989))."

Some state courts have also been unable to interpret and apply *Oakes* correctly. See, e.g., *Junction 615, Inc. v. Ohio Liquor Control Comm'n*, 732 N.E.2d 1025, 1032 (Ohio App. 1999) (citing plurality opinion in *Oakes* regarding mootness and holding overbreadth challenge moot because challenged law was amended). Even the Supreme Judicial Court of Massachusetts, the court from which this Court's *Oakes* decision arose, has evidenced confusion regarding the import of the Court's decision. On remand, the Court understood that the defendant's challenge to the statute under which he was convicted remained a live controversy and decided the challenge. *Commonwealth of Mass. v. Oakes*, 551 N.E.2d 910 (1990). But that same court subsequently cited this Court's *Oakes* decision as holding once "the Legislature had amended the statute, . . . the overbreadth question had become moot." *Commonwealth of Mass. v. Provost*, 636 N.E.2d 1312, 1314 n.3 (1994).

Other courts have recognized that the *Oakes* majority held that facial challenges may not be mooted by amendments.⁶ Still, federal district courts feel bound to apply the incorrect decisions of their respective appellate courts. In *MediaNet of South Florida, Inc. v. City of North Miami*, No. 04-20892-Civ-Jordan (S.D. Fla. July 1, 2005), the district court recognized the Eleventh Circuit's mistake and explained the dilemma as follows:

It may be that the *Coral Springs* panel should not, without some explanation, have cited the plurality opinion in *Oakes* to stand for the proposition that amendment or repeal of a law renders an overbreadth challenge moot. In *Oakes* five Justices rejected the plurality's view on mootness and ruled that a legislative body cannot moot out an overbreadth challenge merely by changing the law, because otherwise the Court would 'decrease the . . . incentive to draft a narrowly tailored law in the first place.' *Osborne v. Ohio*, 495 U.S. 103, 121 (1990) (dicta). It is at least arguable, therefore, that the *Oakes* plurality may not represent the view of the Supreme Court on this issue. (footnote omitted). This does not mean, however, that I have the authority to refuse to follow *Coral Springs* and/or *National III*. For starters, as a

⁶ See, e.g., *Kraimer v. City of Schofield*, 342 F. Supp. 2d 807, 819 (W.D. Wis. 2004) (observing the *Oakes* majority "did not believe that the state should be able to prosecute the defendant under a law that was unconstitutional when defendant committed the allegedly illegal acts"); *Ruff v. City of Leavenworth, Kan.*, 858 F. Supp. 1546, 1555 n.9 (D. Kan. 1994) (expressly following the position of the *Oakes* majority to find controversy not moot); see also *Lamar Adver. Co. v. Township of Elmira*, 328 F. Supp. 2d 725, 732 (E.D. Mich. 2004) (holding amendment could not moot facial challenge to rules in effect on the date of sign applications, but not citing *Oakes* or *Osborne*).

district judge in a hierarchical system, I cannot reject binding Eleventh Circuit precedent on the ground that such precedent was wrongly decided. I can certainly state my views about whether the Eleventh Circuit decisions are correct or incorrect, but I must stop there.

Slip Op. at 12-13.⁹

The repeated misinterpretation of this Court's precedents has created a rip in the fabric of First Amendment overbreadth and mootness jurisprudence that must be repaired. Municipalities have seized upon this opening by keeping their regulations a moving target that can never be hit. As a result, municipalities have avoided not only adjudication of the constitutionality of an original sign code, but also of amended codes that mooted attacks on the original codes. The consequences to First Amendment rights have been severe. By avoiding attacks on their ordinances, municipalities maintain codes that contain extraordinary content discrimination and vast discretion in licensing decisions. Review of the City of Miami's Revised Sign Code (App. 189), shows this to be true. Although organized differently from its predecessor, it is remarkably similar in substantive content. Yet, there is no

⁹ See also *Action Outdoor Adver. JV, L.L.C. v. City of Destin, Fla.*, No. 3:03cv426/MCR, WL 2338804, at *7-9 (N.D. Fla. Sept. 23, 2005) (holding amendment of ordinance mooted suit because it found no substantial likelihood that city would reenact its old code); *Action Outdoor Adver. JV, L.L.C. v. Town of Cinco Bayou, Fla.*, 363 F. Supp. 2d 1321, 1327-28 (N.D. Fla. 2005) (holding amendment of ordinance mooted suit because plaintiff did not show the City had amended its ordinance in bad faith); *ADvantage Adver., L.L.C. v. City of Pelham*, No. CV 02-P-2017-S, 2004 WL 3362497, at *3 n.4 (N.D. Ala. Sept. 10, 2004) (expressly assuming, without deciding, that the case before it had not become moot by amendment to sign ordinance).

meaningful method to attack the revised code, since the City could simply amend the code once again to moot a further attack, according to the decision here for review. Because of the importance of this constitutional issue and the likelihood that the error will oft be replicated by governmental entities when confronted with challenges, the Court should grant certiorari. To do otherwise will permit the City of Miami to chill the First Amendment rights of National and other speakers in derogation of the decision in *Oakes* and *Osborne*.

II.

The Decision Conflicts with Decisions of this Court and Other Courts of Appeals Regarding Standing to Challenge an Entire Ordinance Due to Inextricably Intertwined Constitutional Defects

“[I]n *Metromedia*, the Supreme Court recognized that parties with a commercial interest in speech may raise a facial challenge to an ordinance and raise the noncommercial speech interests of third parties. 453 U.S. 490, 505 n.11, 101 S.Ct. 2882, 69 L.Ed.2d 800.” *Tanner Adver. Co. v. Fayette County, Ga.*, 411 F.3d 1272, 1276 (11th Cir. 2005). In *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004), the Court granted the plaintiff overbreadth standing to facially challenge the judicial review provisions of an adult business licensing scheme even though the plaintiff sued without attempting to obtain a license under the applicable ordinance. *Id.* at 2222, 2226. The Court did not limit the plaintiff’s facial standing to the specific provision that rendered the plaintiff’s use unlawful under the city’s regulation. *Id.* To be sure, outdoor advertising companies have indisputably succeeded for many years in raising facial challenges to sign ordinances on overbreadth

grounds, without regard to the fact an application for a permit has not been filed or a specific provision has not been applied.¹⁰

Nevertheless, the Eleventh Circuit expressly refused to address National's facial attack on the Sign Code's lack of procedural safeguards. (App. 12-13). The Eleventh Circuit made the same mistake in *Granite State Outdoor Advertising, Inc. v. City of Clearwater*, 351 F.3d 1112, 1116-17 (11th Cir. 2003), holding that a plaintiff only has standing to challenge those provisions of an ordinance that caused the plaintiff injury-in-fact. Thus, when signs are non-conforming because they carry commercial advertising, the owner of the sign is precluded from attacking the entire ordinance due to its lack of procedural safeguards or its inclusion of other integral substantive provisions not applied to the owner. Other Eleventh Circuit decisions have not followed this approach,¹¹ and one panel recently

¹⁰ See, e.g. *Odle v. Decatur County, Tenn.*, No. 03-6532, 421 F.3d 386 (6th Cir. 2005) (holding licensing provisions of ordinance unconstitutionally overbroad even though the plaintiff had not itself applied for a license); *Desert Outdoor Adver., Inc. v. City of Moreno Valley*, 103 F.3d 814, 818 (9th Cir. 1996) (plaintiffs "have standing to challenge the permit requirement, even though they did not apply for permits"); *Lamar Adver. of Penn, L.L.C. v. Town of Orchard Park, N.Y.*, 356 F.3d 365, 374 (2d Cir. 2004) (advertising company had standing to challenge inextricably intertwined provisions of ordinance not applied to it); *National Adver. Co. v. Town of Niagara*, 942 F.2d 145, 147 (2d Cir. 1991) (invalidating segments of ordinance not applied to plaintiff and striking down entire ordinance due to inseparability of unconstitutional provisions); *National Adver. Co. v. Town of Babylon*, 900 F.2d 551, 555-56 (2d Cir. 1990) (same).

¹¹ See *Tanner Adver. Co. v. Fayette County, Ga.*, 411 F.3d 1272 (11th Cir. June 9, 2005) (holding sign company has standing to bring facial overbreadth challenge); *Solantic L.L.C. v. City of Neptune Beach*, 410 F.3d 1250 (11th Cir. May 30, 2005) (holding absence of time limits rendered sign code facially unconstitutional); *Cafe Erotica of Fla., Inc.*

(Continued on following page)

justified its refusal to apply the prior panel's ruling based on its inconsistency with "strong precedent from the Supreme Court," citing both *Metromedia* and *Littleton*.¹²

Understandably, the district courts in the Eleventh Circuit have been thoroughly confused by the Eleventh Circuit's failure to follow this Court's precedents. One district court recently observed that "[t]he standing question is complicated by disunity in the Eleventh Circuit's jurisprudence." *KH Outdoor L.L.C. v. City of Trussville, Ala.*, 366 F. Supp. 2d 1142, 1144 & n.3 (N.D. Ala. 2005). The court explained:

The split is as follows: At least three Eleventh Circuit cases have held that under the overbreadth doctrine of the First Amendment, plaintiffs have standing to challenge provisions of sign ordinances that were not applied directly against them. See *Cafe Erotica of Fla., Inc. v. St. Johns County*, 360 F.3d 1274, 1281 (11th Cir. 2004) (finding that two plaintiffs had standing to challenge an ordinance as an invalid prior restraint and as content-discriminatory despite the fact that both plaintiffs erected signs without applying for permits); *Granite State Outdoor Adver., Inc. v. City of St. Petersburg*, 348 F.3d 1278, 1280 n.2 (11th Cir. 2003) (affirming the district court in striking down three provisions that did not apply to the plaintiff); *Nat'l Adver. Co. v. City of Ft. Lauderdale*, 934 F.2d 283, 285 (11th Cir. 1991) (allowing a plaintiff to challenge various provisions

v. St. John's County, 360 F.3d 1274, 1289 (11th Cir. 2004) (holding that limiting signs displaying political messages to a smaller size than signs displaying other types of messages constituted content discrimination).

¹² *Tanner*, 411 F.3d at 1276-77.

of an ordinance that banned all billboards). In a fourth case, an Eleventh Circuit panel held that, even after relaxing the standing requirements under the First Amendment's overbreadth doctrine, a plaintiff only has standing to challenge those provisions that caused the plaintiff an injury-in-fact. See *Granite State Outdoor Advertising, Inc. v. City of Clearwater*, 351 F.3d 1112, 1116-17 (11th Cir. 2003). Two other Eleventh Circuit panels followed a third approach. In *Seay Outdoor Advertising, Inc. v. City of Mary Esther* and *Coral Springs Street Systems, Inc. v. City of Sunrise*, the Eleventh Circuit ruled that the plaintiff lacked standing to challenge collateral provisions only after concluding that those provisions were severable. See, respectively, 397 F.3d 943, 950-51 (11th Cir. 2005); 371 F.3d 1320, 1349 (11th Cir. 2004).

City of Trussville, 366 F. Supp. 2d at 1143 n.3.¹³

The rationale supporting decisions allowing overbreadth challenges is that standing exists where the plaintiff would benefit by challenging a provision of an ordinance not applied to it because invalidating that provision of the ordinance would necessitate invalidation of the *entire* ordinance, including those provisions applied to the plaintiff, under applicable severability principles.

¹³ See also *Action Outdoor Adver. JV, L.L.C. v. Town of Shalimar, Fla.*, 377 F. Supp. 2d 1178, 1188 (N.D. Fla. 2005) (granting standing to bring facial challenge "given the lack of clarity in this area of First Amendment law"); *Granite State Outdoor Adver., Inc. v. City of St. Pete Beach, Fla.*, 322 F. Supp. 2d 1335, 1340 (M.D. Fla. 2004) (holding plaintiff lacked standing challenge to bring overbreadth challenge based on lack of procedural safeguards because plaintiff was not harmed by lack of procedural safeguards).

That rationale clearly applies here and should have been followed. The Eleventh Circuit, however, has unceremoniously rejected this sound principle in this case, even though the Second, Sixth and Ninth Circuits, and other panels of the Eleventh Circuit itself, are all in agreement. Because this issue is of fundamental importance, this Court should address the circuit split, overrule the Eleventh Circuit decision, and clarify that overbreadth standing allows an outdoor advertising company with a commercial interest in speech to assert the noncommercial speech interests of third parties in a facial challenge to an ordinance that impinges upon First Amendment rights.

CONCLUSION

The petition for a writ of certiorari should be granted.

Dated: October 14, 2005.

Respectfully submitted,

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TABLE OF CONTENTS

Page

VOLUME I

1.	<u>Lower Court Opinions</u>	
a.	U.S. Eleventh Circuit Court of Appeals – Case 03-15593 – March 21, 2005.....	App. 1
b.	Judgment U.S. Eleventh Circuit Court of Appeals – Case 03-15593 – issued as mandate May 25, 2005.....	App. 15
c.	Southern District of Florida – Case 01-3039- CV-JLK – Memorandum Opinion Granting Summary Judgment – Sept. 25, 2003	App. 16
2.	<u>Lower Court Opinions in Companion Case</u>	
a.	U.S. Eleventh Circuit Court of Appeals – Case 03-15516 – March 21, 2005.....	App. 74
b.	Southern District of Florida – Case 02- 20556-CV-JLK – Memorandum Opinion Granting Summary Judgment – Sept. 26, 2003.....	App. 83
3.	<u>Order Denying Petitions for Rehearing and Rehearing En Banc</u> – U.S. Eleventh Circuit Court of Appeals – Case 03-15593 – May 17, 2005.....	App. 104
4.	Constitutional Provisions.....	App. 106
5.	<u>Material Required by Subparagraphs 1(f) or 1(g)(i)</u>	
a.	All Sections of the Zoning Ordinance of the City of Miami, Florida, as amended through July 27, 2000, that Regulate Outdoor Advertising	App. 107

App. ii

TABLE OF CONTENTS – Continued

Page

VOLUME II

- b. Miami City Commission Ordinance Nos.
12211, 12212, 12213, 12214, and 12215;
Resolution Nos. 02-392 & 02-393App. 189

App. 1

[PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 03-15593

D. C. Docket No. 01-03039-CV-JLK
NATIONAL ADVERTISING CO.,
Plaintiff-Appellant,
versus
CITY OF MIAMI,
MIAMI-DADE COUNTY, FLORIDA,
Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Florida

(Filed March 21, 2005)

Before EDMONDSON, Chief Judge, WILSON, Circuit
Judge, and RESTANI*, Judge.

PER CURIAM:

In this case, we decide whether a billboard company's
challenge to a City's zoning ordinance is rendered moot by

* Honorable Jane A. Restani, Chief Judge, United States Court of
International Trade, sitting by designation.

the subsequent amendment of the ordinance. Plaintiff-Appellant National Advertising Company ("National") appeals the district court's order granting final summary judgment in favor of Defendant-Appellee, the City of Miami. National brought suit against the City, claiming that the City's Zoning Code violated the First and Fourteenth Amendments to the United States Constitution by impermissibly infringing upon the free speech rights of National and its advertisers. We are convinced that amendments to the City's zoning code rendered this case moot and we therefore reverse the district court's grant of summary judgment with instructions to dismiss the case for lack of jurisdiction.

FACTUAL AND PROCEDURAL BACKGROUND

In March of 1990, the City of Miami adopted a comprehensive Zoning Ordinance that is the subject matter of this suit. Ordinance No. 11,000 divided the City into 24 geographical areas and enacted a comprehensive scheme of regulations applicable to property located in each area. The ordinance was enacted with, among other goals, the purposes of "promot[ing] the public health [and] safety . . . provid[ing] a wholesome, serviceable, and attractive community" and "increas[ing] traffic safety." Miami, Fla., Zoning Ordinance § 120 (1991). While the zoning code governed all aspects of land use within the Miami City limits, some regulations focused on billboards and signs throughout the City. However, the City provided a grace period of five years for advertisers, like National, with existing structures already erected to remove nonconforming billboards.

App. 3

National is a Delaware corporation and a wholly-owned subsidiary of Viacom Outdoor Inc., a corporation formerly known as Infinity Outdoor, Inc. National is a leader in the outdoor advertising industry, specializing in the leasing of billboards, and has operated in Miami for approximately forty years. National normally constructs its billboards on either leased or purchased property and then rents space on the billboards to advertisers. National operates more than forty outdoor advertising signs in various locations throughout the City of Miami. Most of National's billboards display commercial messages, however a few of them display non-commercial, public interest messages.

After nearly a decade of non-enforcement of the Zoning Ordinance's billboard provisions, in April 2001 the City commenced enforcement by issuing notices to property owners who had nonconforming billboards on their property. The notices advised the property owners that they were in violation of the City's zoning code and told the owners to correct the violations by May 2001, or face fines and other penalties brought by the City's Code Enforcement Board. On July 10, 2001, the Miami City Commission authorized the City manager to arrange a Commission meeting where the City Commission could make findings that would justify the City's removal of billboards without notice and to hold outdoor advertising companies in contempt of the City Commission. The next day, National filed this action in district court.¹ While

¹ In addition to this case, National also filed a second suit against the City. That case, *National Advertising Co. v. City of Miami*, Case No. 02-20556-CIV-KING ("*National II*"), was filed on February 21, 2002 in response to the City's rejection of seven permit applications to construct billboards. *National I* and *National II* were consolidated in the district (Continued on following page)

App. 4

National engages in predominantly commercial advertising, its complaint invoked the free speech overbreadth doctrine and alleged that the City's Zoning Ordinance discriminated against non-commercial speech in violation of the First and Fourteenth Amendments, lacked procedural safeguards in violation of the First Amendment, and that the City's decision to begin immediate removal of signs violated Due Process and the First Amendment.

Shortly after filing its complaint, National moved for an injunction to prevent the City of Miami from acting to remove signs or enforce the ordinance. The district court denied National's motion for injunctive relief, and National appealed. In an unpublished opinion, *Nat'l Adver. Co. v. City of Miami*, 48 Fed. Appx. 740, 2002 WL 31054893 (11th Cir. Aug 27, 2002), we vacated the district court's denial of National's motion and remanded to the district court for further consideration. Thereafter, National amended its complaint, alleging three new claims. National asserted (1) that the City's refusal to stay the accrual of code enforcement fines during the pendency of litigation discriminated against National for its exercise of its First and Fourteenth Amendment rights, (2) that the discriminatory acts of the City and Miami-Dade County violated the First Amendment and the Equal Protection Clause, and (3) that the City and the County's lack of

court below. However, we ordered the cases to be argued separately before this court. In this case we asked the parties to focus solely on the constitutionality of the zoning ordinance itself. In the companion case, *National II*, the parties were asked to discuss the issues related to the permitting process in its entirety.

App. 5

procedural safeguards violate the First Amendment.² Additionally, National sought another injunction.

After National filed its first suit against the City, the City began the process of amending its zoning regulations pertaining to signs.³ On January 5, 2002 the City published notice of its intent to amend the Zoning ordinance and those amendments were adopted on April 11, 2002. The amendments changed many aspects of the City's sign code but specifically clarified that non-commercial speech may be placed on any sign where commercial speech was permitted.

In September 2003, the district court entered an order granting summary judgment to the City of Miami and denying National's motion for summary judgment. The district court held that National lacked standing under the overbreadth doctrine to enforce the rights of non-commercial speakers. Additionally, the court held that, assuming National did have standing to enforce the rights of non-commercial speakers, the zoning ordinance did not violate the First Amendment.

STANDARD OF REVIEW

The City contends that the changes to the Zoning Code render National's claims moot. Mootness is the

² Although National's amended complaint added the County as a party, the record makes no mention of appearances by the County and they did not appear before us on appeal.

³ There is some dispute as to when the process of amending the City's zoning ordinance began. However, since we conclude that the City has no intention of re-enacting the allegedly unconstitutional segments of the zoning code, we need not decide what initially motivated the City's comprehensive overhaul of its entire zoning ordinance.

App. 6

central issue in this case and “[w]e review the question of mootness *de novo*.” *Coral Springs St. Sys., Inc. v. City of Sunrise*, 371 F.3d 1320, 1328 (11th Cir. 2004) (internal citations omitted). Furthermore, because the question of mootness is jurisdictional in nature, it may be raised by the court *sua sponte*, regardless of whether the district court considered it or if the parties briefed the issue. *Sannon v. United States*, 631 F.2d 1247, 1250 (5th Cir. 1980).⁴

DISCUSSION

We have long recognized that the Constitution limits the jurisdiction of federal courts. The United States Constitution, Article III, Section 2, provides that the judicial power of the United States federal courts shall extend only to “cases” and “controversies.” *Coral Springs*, 371 F.3d at 1327 (citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 559, 112 S. Ct. 2130, 2136, 119 L. Ed.2d 351 (1992)). The Article III case or controversy limitation on the jurisdiction of federal courts serves an important role in our constitutional separation of powers framework, *Socialist Workers Party v. Leahy*, 145 F.3d 1240, 1244 (11th Cir. 1998), and it is a fundamental principle of our form of democratic government that the role of courts is properly a limited one. Thus, we strictly observe the cases or controversies limitation. *Allen v. Wright*, 468 U.S. 737, 750, 104 S. Ct. 3315, 3324, 82 L. Ed.2d 556 (1984).

⁴ In *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir.1981) (en banc), this Court adopted as binding precedent all decisions of the former Fifth Circuit handed down prior to close of business on September 30, 1981.

Mootness is among the important limitations placed on the power of the federal judiciary and serves long-established notions about the role of unelected courts in our democratic system. By its very nature, a moot suit "cannot present an Article III case or controversy and the federal courts lack subject matter jurisdiction to entertain it." *Coral Springs*, 371 F.3d at 1328 (internal citations omitted). If a lawsuit is mooted by subsequent developments, any decision a federal court might render on the merits of a case would constitute an advisory opinion. See *id.*; *Al Najjar v. Ashcroft*, 273 F.3d 1330, 1336 (11th Cir. 2001); *Socialist Workers Party*, 145 F.3d at 1244. A change in the law, such as amending a zoning ordinance as here, or a change in other circumstances can give rise to mootness. We have held that "[w]hen a subsequent law brings the existing controversy to an end the case becomes moot and should be treated accordingly." *Coalition for the Abolition of Marijuana Prohibition v. City of Atlanta*, 219 F.3d 1301, 1310 (11th Cir. 2000). In other words, federal courts lack jurisdiction to hear and decide cases where changes in the law have rendered the case moot.

Accordingly, we must decide whether the City of Miami's subsequent amendments to its zoning ordinance render National's legal challenges moot. If the zoning ordinance amendments have rendered this suit moot, then we must dismiss the case for lack of jurisdiction.

This Court and the Supreme Court have repeatedly held that the repeal or amendment of an allegedly unconstitutional statute moots legal challenges to the legitimacy of the repealed legislation. For example, in *Coral Springs* we noted that "[g]enerally, a challenge to the constitutionality of a statute is mooted by repeal of the statute." 371 F.3d at 1329. Similarly, in *Coalition for the Abolition of*

Marijuana Prohibition, we held that "when an ordinance is repealed by the enactment of a superseding statute, then the 'superseding statute or regulation moots a case.'" 219 F.3d at 1310 (quoting *Naturist Soc'y, Inc. v. Fillyay*, 958 F.2d 1515, 1520 (11th Cir. 1992)). Furthermore, the Supreme Court has many times held that amendments or revocation of challenged legislation renders the lawsuit moot and deprives the court of jurisdiction.⁵

National argues that the City of Miami's voluntary cessation of their allegedly unconstitutional conduct does not render National's challenge moot. National claims that this case falls within one of the important exceptions to the case or controversy limitations on federal courts'

⁵ We cataloged many of the Supreme Court decisions on this subject in our *Coral Springs* decision:

See, e.g., *Lewis v. Cont'l Bank Corp.*, 494 U.S. 472, 474, 110 S. Ct. 1249, 1252, 108 L. Ed.2d 400 (1990) (holding that a Commerce Clause-based challenge to Florida banking statutes was rendered moot by amendments to the law); *Massachusetts v. Oakes*, 491 U.S. 576, 582-83, 109 S. Ct. 2633, 2637-38, 105 L. Ed.2d 493 (1989) (holding that an overbreadth challenge to a child pornography law was rendered moot by amendment to the statute); *Princeton Univ. v. Schmid*, 455 U.S. 100, 103, 102 S. Ct. 867, 869, 70 L. Ed.2d 855 (1982) (*per curiam*) (holding that the challenge to a university regulation was moot because the regulation had been substantially amended); *Kremens v. Bartley*, 431 U.S. 119, 128-29, 97 S. Ct. 1709, 1715, 52 L. Ed.2d 184 (1977) (holding moot a constitutional challenge to a state statute governing the involuntary commitment of mentally ill minors, because the law had been replaced with a different statute); *Diffenderfer v. Cent. Baptist Church*, 404 U.S. 412, 415, 92 S. Ct. 574, 576, 30 L. Ed.2d 567 (1972) (holding moot a challenge to a Florida tax exemption for church property when the law had been repealed).

Coral Springs, 371 F.3d at 1329

jurisdiction because of the possibility that, if the court does not rule on the ordinance, the City will simply reenact the challenged ordinance at some later date. While our general rule is that repeal of a statute renders a legal challenge moot, an important exception to that general rule is that mere voluntary termination of an allegedly illegal activity is not always sufficient to render a case moot and deprive the federal courts of jurisdiction to try the case. "It has long been the rule that 'voluntary cessation of allegedly illegal conduct does not deprive the tribunal of power to hear and determine the case, i.e., does not make the case moot.'" *Sec'y of Labor v. Burger King Corp.*, 955 F.2d 681, 684 (11th Cir. 1992) (quoting *United States v. W.T. Grant Co.*, 345 U.S. 629, 632, 73 S. Ct. 894, 897, 97 L. Ed. 1303 (1953)). For a defendant's voluntary cessation to moot any legal questions presented and deprive the court of jurisdiction, it must be "absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur." *Id.* (internal quotation marks and citations omitted). In other words, voluntary cessation of offensive conduct will only moot litigation if it is clear that the defendant has not changed course simply to deprive the court of jurisdiction.⁶

National is correct in pointing out that when a defendant has voluntarily ceased its offending conduct we are reluctant to dismiss the case as being moot, particularly if there is affirmative evidence that the defendant is likely to return to its prior ways following our dismissal of the

⁶ Miami amended its sign code six months after being sued by National. Whatever impact this fact might have, it was not expressly argued by National. Furthermore, other evidence persuades us that Miami did not amend its sign code to deprive this Court of jurisdiction.

litigation. However, "governmental entities and officials have been given considerably more leeway than private parties in the presumption that they are unlikely to resume illegal activities." *Coral Springs*, 371 F.3d at 1328-29. Indeed, as we noted above, the cases are legion from this and other courts where the repeal of an allegedly unconstitutional statute was sufficient to moot litigation challenging the statute. See also 13A Wright et al., *Federal Practice and Procedure* § 3533.7 (2d ed. 2004) ("Courts are more apt to trust public officials than private defendants to desist from future violations.").

In sum, when a court is presented with evidence of a "substantial likelihood" that the challenged statute will be reenacted, the litigation is not moot and the court should retain jurisdiction. *Coral Springs*, 371 F.3d at 1329. However, in the absence of evidence indicating that the government intends to return to its prior legislative scheme, repeal of an allegedly offensive statute moots legal challenges to the validity of that statute. "Whether the repeal of a law will lead to a finding that the challenge to the law is moot depends *most significantly* on whether the court is sufficiently convinced that the repealed law will not be brought back." *Coral Springs*, 371 F.3d at 1331 (emphasis added). Therefore, National's reliance on *Nat'l Adver. Co. v. City of Fort Lauderdale*, 934 F.2d 283 (11th Cir. 1991) is misplaced. In that case, the City of Fort Lauderdale amended its sign code in response to a suit challenging the constitutionality of the statute. The City of Fort Lauderdale's conduct, including its motion to dismiss for lack of subject matter jurisdiction filed the day after its amendment took effect, "sufficiently convinced" us that if the suit was dismissed as moot, that the City would simply re-enact the previous version of its sign regulations. We

therefore held that the case was not moot, precisely because of the risk that the City might return to their previous course of conduct. *Fort Lauderdale*, 934 F.2d at 286. We are convinced that there is no similar risk in this case. The only evidence that National has presented in this case to suggest that the City might return to its previous version of the ordinance is the fact that the City has defended its ordinance. However, once the repeal of an ordinance has caused our jurisdiction to be questioned, National bears the burden of presenting affirmative evidence that its challenge is no longer moot. Mere speculation that the City may return to its previous ways is no substitute for concrete evidence of secret intentions.

National is also incorrect in suggesting that we should focus on the City's motivation in amending the code. The City's purpose in amending the statute is not the central focus of our inquiry nor is it dispositive of our decision. Rather, the most important inquiry is whether we believe the City would re-enact the prior ordinance. Again, there is no evidence in this case suggesting any risk that the City of Miami has any intention of returning to its prior course of conduct.

Given the legal framework for determining when subsequent events can moot a legal challenge, we apply those legal principles to the facts of this case. In April 2002, the City of Miami completely revised and amended its zoning ordinances, changing entirely the provisions of their code that were the gravamen of this suit.⁷ Specifically, the

⁷ National spends a large portion of its brief arguing that the April 2002 amendments failed to cure the City's zoning code of constitutional infirmities in the permitting process. Those arguments are misplaced in this appeal. We address National's complaints regarding the permitting

City's revised zoning ordinance mooted National's claims that the City impermissibly favored commercial speech over non-commercial speech. The new zoning ordinance altered completely the City's regulations pertaining to commercial and non-commercial speech. The amendments made clear that non-commercial messages would be permitted anywhere commercial messages were allowed. Additionally, the amendment contained a "substitution clause" that stated that "[a]ny sign allowed herein may contain, in lieu of any other message or copy, any lawful, non-commercial message, so long as the sign complies with the size and height, area, and other requirements." Finally, Ordinance 12,213 amended the City's definition of onsite signs to make it clear that all non-commercial messages were considered onsite. These amendments changed the zoning code so that the allegedly unconstitutional portions of the City's zoning ordinance no longer exist. As a result of these changes we would be incapable of granting National any of the relief requested in its original complaint and any decision we would render would clearly constitute an impermissible advisory opinion. Therefore, National's claims are moot.

While we refrain from deciding whether these changes would nullify *any* potential constitutional infirmities in the City's zoning ordinance, we do hold that the amendments rendered all the complaints raised by National in this suit moot. Whatever defects may remain in the City of

process in this case's companion, *National II*. Additionally, because this case is a facial challenge to Miami's zoning ordinance, we need not address any issues related to whether National had acquired any vested rights prior to the amendments which mooted this claim. Cf. *Coral Springs*, 371 F.3d at 1333-1342.

Miami's zoning ordinance or other laws are not properly before us and we do not address them. As we have held, "under our constitutional system courts are not roving commissions assigned to pass judgment on the validity of the Nation's laws." *Geaneas v. Willets*, 911 F.2d 579, 584 (11th Cir. 1990).

CONCLUSION

Federal courts are courts of limited jurisdiction. Under our Constitutional separation of powers framework, it is essential that all three branches of government strictly observe the limitations on their proper dominion. Thus, out of respect for their limited role within our government, federal courts have long refused to issue advisory opinions. Additionally, we have repeatedly held that moot cases fail to meet the important requirement that courts only address active cases or controversies. In this case, the City of Miami's amendments to the its zoning code effectively rendered moot National's claims as to the constitutionality of the prior version of the code. Furthermore, we are confident that the City does not contemplate returning to its prior zoning ordinance, given our strict disapproval of this type of governmental "flip-flopping." See *Jews for Jesus v. Hillsborough County Aviation Auth.*, 162 F.3d 627, 630 (11th Cir. 1998). In such an instance, the courthouse door would remain open for reinstatement of such a law suit. *Id.* We are convinced that since the City harbors no intentions of returning to the prior zoning ordinance this case does not fall within an exception that would require us to retain jurisdiction.

App. 14

**REVERSED and REMANDED, with instructions to
DISMISS for lack of subject matter jurisdiction.**

App. 15

**United States Court of Appeals
For the Eleventh Circuit**

No. 03-15593

District Court Docket No.
01-03039-CV-JLK

NATIONAL ADVERTISING CO.,

Plaintiff-Appellant,

versus

**CITY OF MIAMI,
MIAMI-DADE COUNTY, FLORIDA,**

Defendants-Appellees.

**Appeal from the United States District Court
for the Southern District of Florida**

JUDGMENT

(Filed Mar. 21, 2005)

It is hereby ordered, adjudged, and decreed that the attached opinion included herein by reference, is entered as the judgment of this Court.

Entered: March 21, 2005
For the Court: Thomas K. Kahn, Clerk
By: Jackson, Jarvis

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

NATIONAL ADVERTISING CO.,

Plaintiff,

v.

CASE NO.:

01-3039-CIV-KING

CITY OF MIAMI,

Defendant. /

MEMORANDUM OPINION
GRANTING SUMMARY JUDGMENT

(Filed Sep. 25, 2003)

I. Factual Background

Plaintiff National Advertising Company is a Delaware corporation and a wholly owned subsidiary of Viacom Outdoor Inc., a corporation formerly known as Infinity Outdoor, Inc. National is in the business of erecting and maintaining billboard signs on property it leases. National maintains both commercial and noncommercial messages on billboards that are located throughout the City of Miami.

The City of Miami adopted, thirteen years ago on March 8, 1990, a comprehensive Zoning Ordinance that is the subject matter of Plaintiff's First Amendment challenge to the constitutionality of the Ordinance. Ordinance No. 11,000¹ divided the City of Miami into 24 geographical

¹ Enacted pursuant to the Charter of the City, section 3(4), 14 and 72; and the Municipal Home Rule Powers Act of 1973, section 166.011 et seq., Florida Statutes, as amended.

areas and specified regulations applicable to property located within each area. The Ordinance precisely enumerated the specific public purposes and objectives the City intended and hoped to achieve through the enactment of Ordinance No. 11,000.² A grace period of five years was provided to Plaintiff, and any other nonconforming billboard or commercial advertising permit holders, with

² The City's objectives as set forth in the Zoning Ordinance:

- (1) To promote the public health, safety, morals, convenience, comfort, amenities, prosperity, and general welfare of the City;
- (2) To provide a wholesome, serviceable, and attractive community;
- (3) To increase the safety and security of home life;
- (4) To preserve and create a more favorable environment in which to rear children;
- (5) To stabilize and enhance property and civic values;
- (6) To develop meaningful and productive relationships between the private sector and City government;
- (7) To provides [sic] for a more uniformly just land use pattern and tax assessment base;
- (8) To aid in development and redevelopment of the City;
- (9) To increase traffic safety and ease transportation problems;
- (10) To provide more adequately for vehicular parking, parks, parkways, recreation, schools, public buildings and facilities, housing, job opportunities, light, air, water, sewerage, sanitation, and other public requirements;
- (11) To lessen congestion, disorder, and danger which often inhere in unplanned and unregulated urban development;
- (12) To prevent overcrowding of land and undue concentration of population;
- (13) To conserve and enhance the natural and man-made resources of the City; and
- (14) To provide more reasonable and serviceable means and methods of protecting and safeguarding the economic and social structure upon which the good of all depends.

existing structures already erected within which to remove such billboards.³

National alleges that the Zoning Ordinance changed the City's zoning classifications, and these reclassified zones had the effect of making "some or all of the offsite signs in the effected zones" nonconforming with the Zoning Ordinance.⁴

³ On or about March 28, 1991, pursuant to Ordinance No. 10863, the City amended the Zoning Ordinance to include a provision requiring removal of nonconforming characteristics of use, which provides as follows:

In any district other than residential, any sign, billboard, or commercial advertising structure which constitutes a non-conforming characteristic of use may be continued, provided no structural alterations are made thereto subject to the following limitations on such continuance: (a) Any such sign except a roof sign shall be completely removed from the premises within five (5) years from the date it became non-conforming.

MIAMI, FLA., ZONING ORDINANCE § 1107.2.2(a) (1991). The Zoning Ordinance defines nonconforming characteristics of use as "including those where the nonconformity was created by ordinance adoption or amendment, as provided at section 1101.1, as well as those where nonconformity was created by public taking or court order, as provided at section 1101.2." *Id.* at § 1107.

⁴ For purposes of the instant case, National alleges it has billboard signs, or has attempted to obtain permits for signs, on property located in the following areas: (1) Restricted Commercial ("C-1"), (2) Liberal Commercial ("C-2"), (3) Central Business District ("CBD"), (4) Martin Luther King Boulevard Commercial District ("SD-1"), (5) Design Plaza Commercial-Residential District ("SD-8"), and (6) Latin Quarter Commercial-Residential and Residential District ("SD-14"). (01-3039-CIV Compl. ¶ 17; 02-20556-CIV Compl. ¶ 13.)

Except for one lease attached to the deposition of Vincent Carrozza, this voluminous record is unclear as to the validity or existence of the leases National claims to have with the property owners.

⁵ (Compl. 01-3039-CIV ¶ 28.)

With the five-year grace period protecting National's existing billboard structures, things remained relatively quiescent for the next ten years.

In April 2001, the City commenced to enforce the Zoning Ordinance by issuing notices to property owners on whose property National had erected billboard signs. The City notices advised the property owners that they were in violation of "Article (11) Sections 1107.2.2(a) [sic] Failure to Completely Remove a Sign, Billboard, or a Commercial Advertisement from the Subject Property."⁶ The property owners were told to correct the violations by various deadlines established throughout the month of May 2001, and that failure to do so could result in \$500 per day fines, arrest, and closing their businesses, by the City's Code Enforcement Board.

The Miami City Commission, on July 10, 2001, authorized the City Manager to notice a meeting for July 19, 2001, at which the City Commission could make a finding that companies engaged in outdoor advertising in the City of Miami are notorious outstanding lawbreakers in order to justify its decision to authorize the removal of the billboards without notice, to hold outdoor advertising companies "in contempt of the City Commission, . . ."⁷

The City served over 100 property owners with summonses to appear before its Code Enforcement Board to respond to charges that the owners had failed to completely remove signs, billboards, or commercial advertisements from their property.

⁶ (Compl. 01-3039-CIV ¶ 32.)

⁷ (Compl. 01-3039-CIV ¶ 33.)

At the hearings⁸, ten of the properties upon which Plaintiff's billboards were located were found to be in violation of the Ordinance and the signs were ordered removed.⁹

Exercising the appellate rights provided by the Zoning Ordinance, all ten property owners appealed the decisions of the City's Hearing Officers to the County Court in and for Dade County and thereafter, to the Eleventh Judicial Circuit Court of Florida.¹⁰ That court, after the posting of

⁸ Hearings were held pursuant to the summonses on November 29, 2001; May 22, 2002; May 23, 2002; May 24, 2002; May 28, 2002; June 3, 2002; June 12, 2002; June 25, 2002; June 27, 2002; July 9, 2002; July 18, 2002; and July 22, 2002.

⁹ The hearing officers ordered as follows:

A. On June 6, 2002, Hearing Officer Kathryn Estevez ordered the following signs removed by June 20, 2002, and imposed a fine of \$250 a day: (1) Tillman Wood, 1712 S.W. 1 Street; and (2) Vincent and Gloria Arias, 5741 West Flagler Street. (Mem. In Supp. Of Renewed Mot. For Prelim. Inj., 01-3039-CIV DE # 58, at 6.)

B. On July 19, 2002, Hearing Officer Jeffrey L. Allen ordered the following signs removed within sixty (60) days from the date of his order: (1) Jesus Vasquez, 2810 West Flagler Street; (2) Vincent Carrozza, 3528 West Flagler Street; (3) Luis Guerra, 3620 N.W. 7th Street; (4) Bartolome Calafell, 3411 N.W. 7th Street; (5) Lockport Investments, 219 N.W. 27th Street; (6) George's Service Station, 15 S.W. 17th Avenue; and (7) KC Crook, 2662 S.W. 27th Avenue. (*Id.*)

C. On August 5, 2002, Hearing Officer Marlon Hill ordered FEC Railway to remove the sign located on its property at 420 N.E. 79th Street within thirty (30) days of the date of his order, and threatened a \$250 a day fine if it is [sic] failed to comply. (*Id.*)

¹⁰ The appeals in the Florida Court have been consolidated and identified as *In re Matter of: City of Miami v. Vicente Arias and W. Gloria*, Case No.: 02-282 AP. Similarly, the appeals to the Circuit Court have been consolidated and identified as *Vicente Arias and W. Gloria v. City of Miami*, Case No.: 02-241 AP. (Mem. In Supp. of Renewed Mot. For Prelim. Inj., 01-3039-CIV DE # 58, at 6.) These appeals are still pending in State Court.

an original appeal bond of \$450,000 by Plaintiff granted a stay of the final orders requiring removal of the billboards until such time as the appeal in state court is decided by that court.

II. Procedural Posture

A. National I¹¹

On July 11, 2001, in response to the City's enforcement proceedings against property owners with whom National had leases to erect and maintain billboards, National filed its three-count Complaint against the City in this Court¹² alleging that the Zoning Ordinance (1) discriminated in violation of the First Amendment and Equal Protection Clause, (2) lacked procedural safeguards in violation of the First Amendment, and (3) the City's decision to begin immediate removal of the signs without further notice or proceedings violated Due Process and the First Amendment.¹³

Three weeks later, National moved for injunctive relief to prevent "the City of Miami (1) from removing any

¹¹ This cause is before the Court upon the parties' Second Cross-Motions for Summary Judgment, filed July 7, 2003. (DE ## 112, 116.) On July 24, 2003, Plaintiff National Advertising ("National") and Defendant City of Miami ("the City") each filed their respective Responses. (DE ## 138, 140.) On August 1, 2003, both the City and National filed their respective Replies. (DE ## 146, 147.) Also pending before this Court is National's Renewed Motion for Preliminary Injunction, filed March 3, 2003. (DE # 56.) On April 7, 2003, the City filed its Response. (DE # 85.) On April 10, 2003, National filed its Reply. (DE # 88.)

¹² *National Advertising Co. v. City of Miami*, Case No. 01-3039-CIV-KING (National I).

¹³ (Compl., 01-3039-CIV at 18-23.)

signs owned, leased, or operated by National Advertising . . . , (2) from enforcing the City's sign regulations against any persons or business entities during the pendency of this litigation, and (3) from imposing any fines or filing any liens in conjunction with enforcement of the City's sign regulations against owners of any property owned by or leased to National Advertising, its parents, affiliates, or subsidiaries."¹⁴

On August 23rd, 24th and September 20th, the Court held evidentiary hearings on National's motion. Plaintiff's Motion for Preliminary Injunction was denied pending exhaustion of National's administrative and appellate remedies guaranteed Plaintiff in the Zoning Ordinance.¹⁵

National appealed and the Eleventh Circuit issued its Mandate on National's appeal on November 26, 2002, vacating and remanding this Court's Order Denying Motion for Preliminary Injunction and stating that "[b]ecause the City summoned the property owners who lease the property to National, rather than National itself, National had no administrative remedies to exhaust."¹⁶

National filed an Amended Complaint against the City and Miami Dade County ("the County") on January 30, 2003, alleging new claims in addition to the three originally set forth in the Complaint: (1) the City's refusal to stay the accrual of code enforcement fines discriminates against National on the basis of its exercise of its First and Fourteenth Amendment rights to pursue litigation against

¹⁴ (Aug. 16, 2001, Emergency Mot. for Prelim. Injunct. at 1.)

¹⁵ (Sept. 21, 2001, Order, 01-3039-CIV DE # 31, at 4.)

¹⁶ *National Adv. v. City of Miami*, No. 01-15676 at 2 (11th Cir. Aug. 27, 2002) (unpublished opinion).

the City, (2) the City and the County's discriminatory acts violate the First Amendment and the Equal Protection Clause, and (3) the City and the County's lack of procedural safeguards violate the First Amendment. Plaintiff sought another injunction on March 3rd of this year.

B. National II

On February 21, 2002, National filed the case referred to as National II¹⁷ in response to the City's rejection of the seven permit applications for commercial speech advertising billboards National submitted in December, 2001 and January, 2002. One of the applications, subsequently resubmitted was granted by the City. On March 3, 2003, the parties filed Cross-Motions for Summary Judgment¹⁸ relating to the factual allegations underlying National II. In an attempt to avoid confusion, those Cross-Motions for Summary Judgment are addressed and ruled upon by separate order.

III. Overview of Arguments

In the Cross-Motions for Summary Judgment, both National and the City set forth various arguments as to why each is entitled to judgment as a matter of law. In its Motion, the City argues that this Court should enter summary judgment in its favor on the following grounds: (1) National's claims are not ripe because National has failed to show injury to its First Amendment rights or its

¹⁷ *National Advertising Co. v. City of Miami*, Case No. 02-20556-CIV-KING (National II).

¹⁸ (02-20556-CIV DE ## 44, 53.)

advertisers' First Amendment rights; (2) National has no standing because National has no injury-in-fact, any injury National may have was not caused by the City, and National's claims are not redressable by this Court; and (3) National's claims are moot because the ordinance it is challenging has been amended and replaced in its entirety. In its Response, National argues that: (1) National's claims are ripe; (2) National has First Amendment injury; (3) this Court can redress National's claims; and (4) National's claims are not moot as a result of the City's amendment to the Ordinance.

On the other hand, in its Motion for Summary Judgment, National argues that it is entitled to summary judgment because: (1) the Ordinance abridges the First Amendment by a) discriminating on the basis of content against noncommercial speech, b) discriminating against different types of noncommercial speech, and c) favoring onsite commercial speech over offsite commercial speech; (2) the Ordinance lacks procedural safeguards required for a speech licensing scheme; and (3) the unconstitutional provisions cannot be severed. In its Response, the City argues that National's Motion should be denied because (1) there are material facts in dispute, (2) the Court lacks subject matter jurisdiction, and (3) the Ordinance does not violate the First Amendment.

IV. Legal Standard

Summary judgment is appropriate where "there is no genuine issue as to any material fact and . . . the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c); *See also Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986) (citations omitted). If the record as a whole

could not lead a rational fact-finder to find for the non-moving party, there is no genuine issue for trial. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986). On a motion for summary judgment, the court must view the evidence in the light most favorable to the nonmoving party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986) (citations omitted). There is no requirement that the trial court make any findings of fact. *Id.* at 251.

The moving party bears the initial burden of demonstrating the absence of a genuine issue of material fact. *Hairston v. Gainesville Sun Publ'g Co.*, 9 F.3d 913, 918 (11th Cir. 1993). If the movant meets this burden, the burden then shifts to the nonmoving party to establish that a genuine dispute of material fact exists [sic]. *Id.* To meet this burden, the non-moving party must go beyond the pleadings and "come forward with significant, probative evidence demonstrating the existence of a triable issue of fact." *Chanel, Inc. v. Italian Activewear of Florida, Inc.*, 931 F.2d 1472, 1477 (11th Cir. 1991). If the evidence relied on is such that a reasonable jury could return a verdict in favor of the nonmoving party, then the Court should refuse to grant summary judgment. *Hairston*, 9 F.3d at 919. A mere scintilla of evidence in support of the nonmoving party's position, however, is insufficient to defeat a motion for summary judgment. *Anderson*, 477 U.S. at 252. If the evidence is merely colorable or is not significantly probative, summary judgment is proper. *Id.* at 249-50.

V. Analysis

The spirit of the First Amendment is to "protect speech from the dangers of government censorship and to

stop the government from suppressing the expression of ideas and public debate through the guise of regulation." *Granite State Outdoor Adver. v. Clearwater, Florida*, 213 F. Supp. 2d 1312, 1333 (M.D. Fla. 2002) (citing *Ward v. Rock Against Racism*, 491 U.S. 781 (1989)). In its protection of free speech, press and religion, the First Amendment embodies the ideals this country holds dearest to its national consciousness. Since its infancy, these principles have provided the bedrock of our democratic society. Being able to freely express ideas and opinions constitutes the heart of the American character. As such, courts fiercely protect these freedoms from even the slightest of erosion resulting from government intervention and legislation.

However, with every right comes a corresponding responsibility. A recurring issue in jurisprudential history concerns the Supreme Court's struggle to balance individual rights with the rights of society as a whole. THE OXFORD COMPANION TO THE SUPREME COURT OF THE UNITED STATES 300-01 (Kermit L. Hall ed., 1992). Therefore, the courts play an essential role in drawing viable constitutional lines between government regulations and an individual's right to exercise his First Amendment freedoms. Nonetheless, plaintiffs must not be allowed to manipulate courts' visceral need to protect the First Amendment. Instead, courts must vigilantly reject arguments intended to pervert that Amendment's primary purpose.

This case presents a facial challenge on First Amendment grounds to a municipal zoning ordinance by a commercial billboard advertising company. The instant action represents yet another case in what seems to be an ever-increasing trend through which outdoor advertising companies facially challenge municipal ordinances seeking

to strike down such ordinances as entirely void.¹⁹ There have been a series of cases by billboard companies across the Eleventh Circuit against municipal zoning ordinances raising the same facial challenges here asserted.²⁰ Through these actions, advertising companies transform the proverbial First Amendment shield, intended to protect noncommercial speech, into a sword that assures their commercial well-being. The following analysis presents an in-depth examination of the provisions challenged in this case to determine whether the City's Zoning Ordinance "create[s] an unacceptable threat to the 'profound national commitment . . . that debate on public issues should be uninhibited, robust, and wide-open.'" *Members of the City Council v. Taxpayers for Vincent, et al.*, 466 U.S. 789, 817

¹⁹ An interesting fact from these cases is that upon the district court's ruling, the adverse party appeals, and subsequently, the parties settle without the Eleventh Circuit issuing an opinion. For example, in *Wilton Manors Street Systems v. Wilton Manors*, No. 00-6186-CIV-UNGARO-BENAGES (S.D. Fla. Dec. 5, 2000), the court entered an order granting Plaintiff's Motion for Summary Judgment. That order was appealed and the appeal was dismissed as per the parties' Joint Motion to Dismiss. Similarly, in *Florida Outdoor Adver., LLC, v. Boynton Beach*, 182 F. Supp. 2d 1201 (S.D. Fla. 2001) (Middlebrooks, J.), the court entered an order granting Plaintiff's Motion for Summary Judgment. That order was appealed and later the appeal was dismissed because the parties settled. Then, in *Florida Outdoor Adver., LLC v. Boca Raton*, No. 01-8504-CIV-MIDDLEBROOKS (S.D. Fla. Jan. 14, 2003), the district court entered summary judgment for the City, but the advertising company did not appeal. Finally, in *Coral Springs Street Systems, Inc. v. City of Sunrise*, No. 01-7951-CIV-ZLOCH (S.D. Fla. Feb. 21, 2003), what seems to be the most recent billboard case, the parties appealed the district court's order granting Plaintiff's Motion for Summary Judgment. This case is, as far as this Court knows, still pending.

²⁰ Judges of the Southern District of Florida have rendered four decisions involving the same or similar billboard company challenges to city ordinances.

(1984) (quoting *New York Times Co. v. Sullivan*, 84 S. Ct. 710, 720-21 (1964)).

A. National's Standing to Assert First Amendment Challenge

In the instant action, National alleges that Ordinance No. 11,000²¹ is facially unconstitutional because it impermissibly infringes on the free speech rights of National and its advertisers as guaranteed by the First and Fourteenth Amendments. Specifically, National argues that the City's threat to remove some of National's billboards pursuant to its facially unconstitutional sign code constitutes First Amendment injury.²² National further argues that this Court can redress its injury "[o]nly by striking the City's Sign Code in its entirety and enjoining its further enforcement."²³ In its cross-motion, the City argues that National lacks standing because: 1) National has no First Amendment injury because this case is about

²¹ At the outset, this Court notes that at the time relevant to this case, the City of Miami did not have a sign code. (Tr. of Hr'g on Cross Mot.'s for Summ. J. at 34-40, 8/27/03.) What National alternatively calls the City's "Sign Code" or "Sign Ordinance" consists of numerous sections of nine (9) different Articles pulled from the City's Zoning Ordinance that regulate the use of outdoor signs and structures. (Pl.'s Notice of Filing, 01-3039-CIV DE # 94, at 4.) However, these nine (9) Articles are not individually codified as a sign code, but instead, are part and parcel of the City's comprehensive Zoning Ordinance. (See Tr. of Hr'g on Cross Mot.'s for Summ. J. at 35, 39-40, 8/27/03.) Thus, the Court will refer to the challenged provisions as the Zoning Ordinance.

²² (Pl.'s Mem. In Opp'n to Def.'s Mot. for Summ. J., 01-3039-CIV DE # 138, at 11.)

²³ (Pl.'s Mem. In Opp'n to Def.'s Mot. for Summ. J., 01-3039-CIV DE # 138, at 2, 14; see also Pl.'s Mem. in Support of Mot. for Summ. J., 01-3039-CIV DE # 117, at 18.)

National's right to erect billboards wherever it wants, not speech; 2) any alleged injury was caused by National's refusal to relocate its billboards to areas of the City where they are allowed, not by the City; and 3) National's alleged injury is not redressable by the Court because even if the Court struck the provisions of the City's Ordinance as facially unconstitutional, National's billboards would still be illegal under the City's amended Ordinance and would have to be removed.²⁴

Article III of the U.S. Constitution limits federal court jurisdiction to the consideration of actual cases and controversies. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 559 (1992). Part of this case or controversy requirement includes the doctrine of standing, which determines whether a plaintiff is the proper party to bring its claim before the court for adjudication. *Id.* at 560; see also Erwin Chemerinsky, *Federal Jurisdiction* 56 (3rd ed. 1999). In *Baker v. Carr*, the Supreme Court cautioned that a plaintiff who is challenging the constitutionality of a state or federal law must have "such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions." 369 U.S. 186, 204 (1962). Thus, in order to have standing, a plaintiff must prove that: 1) it has sustained an injury "of a legally protected interest;" 2) a "causal connection [exists] between the injury and the conduct complained of;" and 3) the injury is capable of being redressed by the court. *Lujan*, 504 U.S. at 560-61 (citations omitted). Moreover,

²⁴ (Def.'s Mem. in Supp. of Summ. J., 01-3039-CIV DE # 112, at 13-17.)

the plaintiff's injury must be "concrete and particularized, and actual or imminent, not conjectural or hypothetical." *Id.* at 560.

However, under the overbreadth doctrine, the Supreme Court has created a limited exception to traditional Article III standing requirements to allow a plaintiff to challenge the "facial validity of a statute on the grounds of its substantial infringement of the First Amendment interests of others" not before the court. *Metromedia, Inc. v. San Diego*, 453 U.S. 490, 505 n.11 (1981); see also *Taxpayers for Vincent*, 466 U.S. at 799. This exception is based on the determination that "First Amendment interests are fragile interests, and . . . the possible harm to society from allowing unprotected speech to go unpunished is outweighed by the possibility that protected speech will be muted." *Bates v. State Bar of Arizona*, 433 U.S. 350, 381 (1977). Yet there is always a risk that this exception to the otherwise stringent traditional standing requirements will swallow the general rule. *Taxpayers for Vincent*, 466 U.S. at 799. Accordingly, the Supreme Court has cautioned that the overbreadth doctrine is "manifestly [] strong medicine . . . employed by the Court sparingly and only as a last resort." *Broadrick v. Oklahoma*, 413 U.S. 601, 613 (1973). Therefore, to allow a plaintiff to attack an otherwise legitimate statute on facial overbreadth grounds, particularly where the statute's purpose is to regulate conduct and not speech, the overbreadth must be "not only real but *substantial* as well," such that there is "a *realistic danger* that the statute itself will significantly compromise recognized First Amendment protections of parties not before the Court." *Taxpayers for Vincent*, 466 U.S. at 799-01 (emphasis added). The overbreadth doctrine did not, however, "create any exception from the general rule that

constitutional adjudication requires a review of the application of a statute to the conduct of the party before the Court." *Id.* at 798. Thus, the Supreme Court has permitted a commercial billboard company to assert a facial overbreadth challenge to an ordinance only where the company also engaged in a "substantial amount of noncommercial advertising." *Metromedia*, 453 U.S. at 504 (emphasis added).

National Advertising, in this case has, by its own estimate a *de minimis* noncommercial interest. It is an outdoor billboard company publishing commercial advertising on 98% of its structures.²⁵

1. National has standing to challenge the provisions of the Ordinance relating to commercial speech

Because National's interests in this case are overwhelmingly commercial²⁶, National's standing to challenge provisions of the Ordinance that affect commercial as opposed to noncommercial speech will be examined separately. With regard to commercial speech, National has demonstrated particularized, imminent injury, traceable to the City's conduct, which can be redressed by the Court.

²⁵ In *National Advertising II*, the seven permit applications filed by Plaintiff were for commercial billboards. No mention was made (in the permit application) for Plaintiff's intent to publish noncommercial speech.

²⁶ According to Joseph H. Little, Director of Real Estate in the Southeast for Viacom Outdoor, Inc., noncommercial messages displayed on National's billboards represent approximately 2% of National's total advertising. (Aug. 28, 2002, Tr. of Prelim. Inj. Hr'g at 23:3-13.) Thus, the remaining 98% of National's advertising consists of commercial messages displayed on billboards located throughout the City of Miami.

National is a commercial, for-profit billboard advertising company, and a wholly owned subsidiary of the largest advertising company in the United States, Canada, and Mexico.²⁷ National currently has billboards standing in the City of Miami that, but for the City's Zoning Ordinance, are presumably there legally.²⁸ The City has threatened removal of National's billboards under the Ordinance and has begun enforcement proceedings against property owners to have some of National's billboards removed. Moreover, this Court has the power to strike and enjoin enforcement of any provisions of the Ordinance found to be unconstitutional. Therefore, this Court finds that National has Article III standing to challenge those provisions of the City's Zoning Ordinance that restrict commercial speech.

2. National does not have standing to challenge the provisions of the Ordinance that do not relate to noncommercial speech

National's standing, under the overbreadth exception to challenge those provisions of the Zoning Ordinance that allegedly unconstitutionally restrict noncommercial speech

²⁷ (01-3039-CIV Am. Compl. ¶ 4.)

²⁸ The record is unclear as to the validity or existence of the leases National claims to have with property owners at issue in this case. The parties have had a full opportunity to develop, in the discovery and pleading practice phase of this case the validity, or indeed even the existence of, leases National claims to have with property owners it purports to represent in this case. The Plaintiff, at a minimum, must show that it either owns or leases some or all of the approximate 100 billboard sign locations for which the City has issued summonses to the owners of the property as being in violation of the City's Zoning Ordinance No. 11,000.

is a more difficult question.²⁹ After careful consideration, this Court concludes that National does not have the required substantial interest in noncommercial speech to have any standing to assert challenges on behalf of non-commercial advertisers (if any there be) to the noncommercial provisions of the Zoning Ordinance.

First, the purpose of the City's Zoning Ordinance, like most municipal zoning ordinances, is to regulate land use within the City of Miami to avoid "unplanned and unregulated urban development."³⁰ More specifically, the approximately 800-page Zoning Ordinance divides the city into different districts and regulates everything from the height of buildings, to the construction and location of billboards, signs, and other structures, the construction and location of parking lots, the use of water, and the occupancy rates of dwelling units.³¹ Since the purpose of the City's Ordinance is to regulate conduct, not speech, it is unlikely that the overbreadth challenge has any relevancy at all to this case.

Second, National has failed to demonstrate the kind of "substantial overbreadth" contemplated by the Supreme Court that would justify application of the exception in this case. In *Taxpayers for Vincent*, the Supreme Court reiterated that "the overbreadth of a statute must not

²⁹ Judge Moody succinctly stated that "[t]he overbreadth doctrine is referred to frequently, yet it remains little understood and a source of much confusion." *Granite State Outdoor Adver.*, 213 F. Supp. 2d at 1321 n.11 (citing Hill, Alfred, "The Puzzling First Amendment Overbreadth Doctrine," 25 Hofstra L. Rev. 1063 (Summer 1997); Fallon, Jr., Richard H., "Making Sense of Overbreadth," 100 Yale L.J. 853 (Jan. 1991)).

³⁰ MIAMI, FLA., ZONING ORDINANCE § 120 (1991).

³¹ See, e.g., *Id.* at §§ 200, 210, and 220.

only be real, but substantial as well, judged in relation to the statute's plainly legitimate sweep.'" 466 U.S. at 800 (quoting *Broadrick v. Oklahoma*, 413 U.S. 601, 615 (1973)). In *Bates*, the Supreme Court further stated that "justification for the application of overbreadth analysis applies weakly, if at all, in the ordinary commercial context. . . . Since advertising is linked to commercial well-being, it seems unlikely that such speech is particularly susceptible to being crushed by overbroad regulation." 433 U.S. at 380-81. Finally, in *Broadrick*, eight justices agreed that an overbreadth challenge should not be entertained in every First Amendment case,³² and the Court concluded that the overbreadth exception, "a limited one at the outset," becomes less justified as the behavior sought to be regulated "moves from 'pure speech' toward conduct." 413 U.S. at 615.

Here, National has been engaged in billboard advertising in the City of Miami for approximately forty years,³³ yet Plaintiff has not presented this Court with a single instance where the City has ever infringed on anyone's noncommercial free speech rights.³⁴ Thus, National has

³² *Metromedia*, 453 U.S. at 547 (Stevens, J., dissenting). This Court notes that Justice Stevens wrote the majority opinion in *Taxpayers for Vincent* only four (4) years after dissenting in *Metromedia* and discusses standing and the overbreadth doctrine extensively in both opinions. Therefore, this Court gives his dissenting opinion in *Metromedia* great weight.

³³ (01-3039-CIV Am. Compl. ¶ 9.)

³⁴ Despite the voluminous record in this case, National has not produced any testimony nor a single affidavit of anyone attesting to a situation in which he or she petitioned to put up a noncommercial message and the City deprived them of that right. On the contrary, the Court finds that the record is replete with evidence that National's sole

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sustained no injury with regard to its noncommercial speech rights, nor has it demonstrated any "realistic danger" that the Ordinance's very existence threatens the First Amendment rights of others not before the Court. In fact, the Ordinance National is challenging has been amended and is no longer in effect.³⁵ While this Court recognizes that a city cannot escape overbreadth review simply by amending its Ordinance,³⁶ the Court finds it illogical to extend the limited overbreadth doctrine to an Ordinance that cannot chill any speech in the future, and, by all accounts, has not chilled any in the past. There is simply no reason to think that National's interests in any way parallel those of noncommercial speakers,³⁷ and this Court hesitates to facially invalidate a zoning ordinance, enacted by the elected officials of the City of Miami to regulate the use of land in that city, based on mere prediction and speculation.³⁸ "[U]nder our constitutional system courts are not roving commissions

interest is in erecting commercial billboards wherever it chooses throughout the City in order to ensure its commercial well-being.

³⁵ National has not challenged the City's amended Ordinance in this litigation.

³⁶ See *Massachusetts v. Oakes*, 491 U.S. 576, 586-87 (1989).

³⁷ Compare *Metromedia*, 453 U.S. at 548 (Stevens, J., dissenting) (stating that the interests of onsite advertisers do not necessarily parallel the interests of commercial offsite billboard advertisers).

³⁸ See *id.* at 547 (Stevens, J., dissenting) (stating that while overbroad legislation "may deter protected speech to some unknown extent, there comes a point where that effect — at best a prediction — cannot, with confidence, justify invalidating a statute on its face and so prohibiting a State from enforcing the statute against conduct that is admittedly within its power to proscribe").

assigned to pass judgment on the validity of the Nation's laws,³⁹ and this Court will not presume to do so here.

Finally, this Court does not read *Metromedia* to stand for the proposition that a plaintiff with a *de minimis* interest in noncommercial speech may facially challenge an ordinance raising the noncommercial speech interests of third parties who have not shown any injury and who are not before the Court. Interestingly, however, four out of five of National's First Amendment challenges to the City's Zoning Ordinance are on behalf of noncommercial speech interests. Specifically, National's Complaint alleges that the Ordinance discriminates:

- a. Against *noncommercial speech* on the basis of content by allowing on-site commercial outdoor advertising signs while prohibiting noncommercial outdoor advertising signs at the same sites.
- b. Against *noncommercial speech* on the basis of content by prohibiting noncommercial signs generally, but allowing some noncommercial signs.
- c. Against *noncommercial speech* on the basis of content by exempting some noncommercial signs from licensing altogether.
- d. Against *noncommercial speech* on the basis of content by imposing more restrictive size, height, and spacing requirements on some noncommercial signs than on others on the basis of content.

³⁹ *Id.* at 546 (Stevens, J., dissenting) (discussing standing and the overbreadth doctrine).

e. Against *commercial offsite signs* by banning most such signs.

f. Against all signs on the basis of the zone in which they are located.⁴⁰

In the instant case, National's Vice President, Joseph H. Little, testified that National's billboard displays are "largely commercial," and noncommercial advertising constitutes only "[p]erhaps two percent" of National's total advertising budget.⁴¹ Even if two percent of National's billboards in the City of Miami contain noncommercial messages, this Court concludes that two percent does not constitute a "substantial amount," as mandated as an absolute prerequisite to invoking the overbreadth exception.⁴² National's counsel relies heavily upon the little

⁴⁰ (01-3039-CIV ¶ 67(a)-(f).)

⁴¹ (Tr. Of Prelim. Inj. Hr'g. at 23; 7, 10, 8/28/2002.)

⁴² At oral argument, the following exchange occurred between the Court and National's attorney:

Mr. Julin: Our client has standing, like *Metromedia*, because we - *Metromedia* had two percent of its signs used for noncommercial speech.

Court: Is that in the opinion -

Mr. Julin: Yes, it is. It is in the opinion.

Court: - in the *Metromedia* opinion? It's not in the Supreme Court of California opinion or anywhere else? That's somewhere in the opinion, two percent?

Mr. Julin: Yes.

Court: I don't have any difficulty that it's - that you have read it somewhere in the record.

Mr. Julin: No, it's not in the record. It's actually referred to in the opinion . . .

Court: I accept your word it's in there. Now, the Court there, you say, held that was a substantial, a substantial element of discrimination against noncommercial speech?

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understood footnote from the plurality opinion in *Metromedia* holding: "we have never held that one with a 'commercial interest' in speech also cannot challenge the facial validity of a statute on the grounds of its substantial infringement of the First Amendment interest of others." 453 U.S. at 505 n.11. The doctrine of standing in First Amendment billboard cases is unclear at best. See *Lamar Adver. Co. v. City of Douglasville*, 254 F. Supp. 2d 1321, 1327 n.3 (N.D. Ga. 2003) (citing numerous cases that note the uncertain state of the law in this area). Counsel's reading of this quoted footnote from *Metromedia* is a basis for his interpretation that even a *de minimis* two percent noncommercial speech publication by a commercial billboard advertising company gives National herein an almost absolute right to raise all the noncommercial First Amendment challenges to a city ordinance that would be

Mr. Julin: Yes.

Court: Is two percent, in your view, substantial?

Mr. Julin: It is substantial. Here is what they are saying. They are saying the city has made a determination that some content of noncommercial speech is going to be allowed, not only in certain areas, but in all the zones of the city there are these general exceptions for certain types of noncommercial speech.

* * *

Court: I just have difficulty with the concept, if the Supreme Court said that in that case, and I assume they did, that it's substantial. Two percent seems to me to be not substantial. 98 percent seems substantial. Two percent does not.

(Tr. of Hr'g. on Cross Mot.'s for Summ. J. at 96: 4, 97:10-14, 8/27/03.)

This Court diligently searched the *Metromedia* opinion and found no reference to two percent.

otherwise available to noncommercial speakers. This is the authority, counsel urges, giving National the right to the overbreadth exception and the consequent noncommercial challenges National has raised.

It defies logic and all reasonable interpretation of the language of *Metromedia* referred to above (relied upon by National) where the Supreme Court has simply said that it has not yet determined that an entity with a commercial interest can *never* raise a First Amendment challenge to the facial validity of a statute, into a legal principal that even a slight (*de minimis*) interest in noncommercial speech by a overwhelmingly proportionate commercial speech billboard company thus giving it the right to take up the sword on behalf of noncommercial advertisers (if any) in the battles they fight to protect their commercial interests. Therefore, this Court finds that National cannot raise a facial overbreadth challenge to the City's Zoning Ordinance.

B. Content-Based v. Content-Neutral

At the heart of this case lies the debate over whether the Zoning Ordinance at issue constitutes an impermissible content-based regulation, or a constitutionally sound content-neutral zoning regulation. National argues that the Zoning Ordinance is a facially unconstitutional content-based ordinance that cannot survive strict scrutiny as a result of provisions that favor (1) commercial over

App. 40

noncommercial speech;⁴³ (2) some noncommercial over other noncommercial speech;⁴⁴ and (3) onsite commercial

⁴³ In support of this argument, National cites to the following Ordinance provisions:

<u>Code Section</u>	<u>Zone</u>	<u>Code Page</u>	<u>Nature</u>
401	G/I	119	Onsite only.
401	C-1	129	Onsite only.
401	CBD	132.1	Onsite only.
401	I	130.9 & 132.4	Onsite only.
401	RT	137	Point of sale; outdoor advertising.
601.4.1.2	All	178	Plant nurseries; outdoor dining; etc.
615.8	SD-15	270	Onsite only; not more than one-half Of sign shall advertise subsidiary products or services.
616.11	SD-16	280	Same as 602.11; onsite; offsite prohibited.
926.10.3	All	375	Onsite signs not in use.
926.15	All	376	Outdoor advertising.

(Pl.'s Notice of Filing, 01-3039-CIV DE # 94, at 5.)

⁴⁴ In support of this argument, National cites to the following sections and argues as follows: (1) §§ 925.3.12 and 925.3.13 permit "political campaign signs connected to elections but prohibit[] political signs unrelated to elections;" (2) § 925.3.11 permits "civic campaign signs in the C-1 zone but not other noncommercial signs;" (3) § 925.3.19 allows "freestanding perimeter wall signs for identifying developments but not for political messages;" and (4) § 925.3 exempts "certain noncommercial signs (e.g. flags, real estate signs, election signs, from the permitting process while imposing permit requirements on others." (Pl.'s Mem. In Supp. of Mot. for Summ. J., 01-3039-CIV DE # 117, at 8-9.)

National also identifies the following sections in further support of this argument: (1) § 401 at 98, 100, 102, 107, 111, 115, 119, 128, 103.3, 132.1, 180.9, and 137; (2) § 507 at 160; (3) § 602.11 at 186; (4) § 604.11 at 190; (5) § 605.11 at 202; (6) § 606.11 at 214; (7) § 606.11 at 214; (8) § 607.11 at 226; (9) § 607.11 at 226; (10) § 608.11 at 229; (11) § 609.11 at 230.2 (this Court could not identify this section in the copy of the Zoning Ordinance filed in this record); (12) § 611.11 at 235; (13) § 613.11 at 240; (14) § 614.3.8 at 246; (15) § 615.8 at 270; (16) § 616.11 at 280; (17) § 620.8 at 288.1; (18) § 622.11 at 294; (19) § 623.8; (20) § 625.8; (21)

(Continued on following page)

over offsite commercial speech.⁴⁸ On the other hand, the City asserts that the Ordinance is simply a content-neutral

every subsection of § 925.3 at 368-372 (exempting the following signs from permit requirements: a) signs erected by or on order of governmental jurisdictions, b) national flags and flags of political subdivisions, c) decorative flags and other decorations for special occasions, d) symbolic flags and award flags, e) address and directional signs or warning signs, f) signs on vehicles, g) real estate signs, h) construction and development signs, i) balloons, j) signs posted on community or neighborhood bulletin signs and kiosks, k) temporary civic campaign signs, l) temporary political campaign signs, m) cornerstones and memorials, n) U.S. mailboxes, o) signs on bus shelters/benches or trash receptacles, p) weather flags, q) signs identifying churches, and r) freestanding perimeter wall signs identifying developments); (22) § 926.5.1 at 373; (23) § 926.9 at 374 (exempting signs of historic significance from permit requirements); (24) 926.10.3 at 375; (25) 926.12 at 376; (26) 926.15 at 376; (27) 926.16 at 378; (28) definitions of various words set forth in § 2502 at 683-720. (Pl.'s Notice of Filing Zoning Ordinance, Sign Code and Challenged Provisions, 01-3039-CIV DE # 94, at 5-7.)

⁴⁸ In support of this argument, National cites to the following Ordinance provisions:

<u>Code Section</u>	<u>Code Page</u>	<u>Nature</u>
401	119	Onsite only.
401	129	Onsite only.
401	132.1	Onsite only.
401	130.9 & 132.4	Onsite only.
401	137	Point of sale; outdoor advertising.
601.4.1.2	178	Plant nurseries; outdoor dining; arts & crafts; Demonstrations; performances; flowers; plants & shrubs; objects of art; handicrafts; mass-produced items; produce & foods.
615.8	270	Onsite only; not more than one half of sign shall advertise subsidiary products or services.
616.11	280	Same as 602.11; onsite height; offsite prohibited.
926.10.3	375	Onsite signs not in use.
926.15	376	Outdoor advertising.

(Pl.'s Notice of Filing Zoning Ordinance, Sign Code and Challenged Provisions, 01-3039-CIV DE # 94, at 8-9.)

zoning regulation intended to prevent the construction of billboards in certain areas throughout the City; namely, restricted commercial and residential zoning districts.⁴⁴

With regard to whether an ordinance is content-based or content-neutral, the Supreme Court has stated as follows:

The principal inquiry in determining content neutrality . . . is whether the government has adopted a regulation of speech because of disagreement with the message it conveys. The government's purpose is the controlling consideration. A regulation that serves purposes unrelated to the content of expression is deemed neutral, even if it has an incidental effect on some speakers or messages but not others. Government regulation of expressive activity is content neutral so long as it is "justified without reference to the content of the regulated speech."

Ward v. Rock Against Racism, 491 U.S. 781, 791 (1987) (quoting *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 293 (1984) (internal citations omitted)). Furthermore, the Eleventh Circuit has noted that in evaluating facial challenges to an ordinance, courts must attempt to construe any ambiguities "in a manner which avoids constitutional problems." *Southlake Prop. Assoc., Ltd. v. Morrow, Georgia*, 112 F.3d 114, 119 (11th Cir. 1997) (citing *American Booksellers v. Webb*, 919 F.2d 1493, 1500 (11th Cir. 1990)). In the following analysis, the Court evaluates each of National's arguments and finds that the City's Zoning Ordinance constitutes a constitutionally

⁴⁴ (Aug. 28, 2002, Tr. of Prelim. Inj. Hr'g at 40:23-41:7.)

permissible content-neutral regulation intended to regulate structures rather than to suppress speech.

1. Commercial Speech-Constitutionality

In addition, National argues that this Court should strike down the Zoning Ordinance as an unconstitutional content-based regulation because of its different treatment of offsite and onsite commercial speech.⁴⁷ As the basis for this argument, National cites to provisions in the Ordinance that allow onsite commercial signs but prohibit offsite commercial signs.⁴⁸ See *supra* note 45. Specifically, National argues that because of the way the Ordinance defines "onsite" and "offsite" signs, this distinction results in greater protection being offered to onsite commercial signs, e.g., a drugstore advertising "Bayer Aspirin," as opposed to offsite commercial signs, e.g., a billboard above a drugstore advertising "Goodyear Tires."

A casual review of First Amendment precedent reveals the judicial consensus that commercial speech is not accorded the same level of protection as noncommercial speech. In *Ohralik v. Ohio State Bar Assn.*, the Supreme Court stated:

To require a parity of constitutional protection for commercial and noncommercial speech alike

⁴⁷ (Pl.'s Mem. In Supp. of Summ. J., 01-3039-CIV DE # 117, at 9.)

⁴⁸ This Court would like to clarify that in light of *Southlake* and this Court's previous analysis, offsite signs by their very nature are commercial signs. See discussion *infra* Part V.B.2.a. However, in this section the Court will refer to offsite "commercial" signs for congruency with National's arguments and to avoid confusion.

could invite dilution, simply by a leveling process, of the force of the [First] Amendment's guarantee with respect to the latter kind of speech. Rather than subject the First Amendment to such a devitalization, we instead have afforded commercial speech a limited measure of protection, commensurate with its subordinate position in the scale of First Amendment values, while allowing modes of regulation that might be impermissible in the realm of noncommercial expression.

436 U.S. 447, 456 (1978). Subsequently, the Court set forth the following four-part test for analyzing the validity of a governmental regulation of commercial speech: (1) the only commercial speech subject to protection is that which concerns lawful activity and is not misleading; (2) a valid regulation must assert a substantial governmental interest; (3) the regulation must directly advance the governmental interest asserted; and (4) the regulation is no more extensive than necessary to achieve that interest. *Central Hudson Gas & Elec. Corp. v. Public Serv. Comm'n*, 447 U.S. 557, 566 (1980).

A year later in *Metromedia*, the Supreme Court specifically addressed one of the questions National brings before this Court; namely, whether a city can constitutionally regulate commercial speech through an onsite-offsite distinction. 453 U.S. 490. The ordinance in *Metromedia* permitted onsite commercial advertising,⁴⁹ "but other

⁴⁹ Onsite commercial advertising signs were defined as those "designating the name of the owner or occupant of the premises upon which such signs are placed, or identifying such premises; or signs advertising foods manufactured or produced or services rendered on the

commercial advertising and noncommercial communications using fixed-structure signs [were] everywhere forbidden unless permitted by one of the specified exceptions.⁵⁰ *Id.* at 496. The city's purpose in passing such an ordinance was to further "traffic safety and the appearance of the city." *Id.* at 507. The plaintiff, a billboard company, challenged the ordinance on the grounds that it would eliminate the outdoor advertising business in San Diego and that this violated the First and Fourteenth Amendments. *Id.* at 503-04.

In addressing plaintiff's claims, the Court applied the four-prong *Central Hudson* test and stated that "[t]here can be little controversy over the application of the first, second, and fourth criteria." *Id.* at 507. First, the Court indicated that there was no evidence that the commercial speech at issue was either misleading or involved unlawful activity. *Id.* Next, the Court stated that there could not be "substantial doubt that the twin goals that the ordinance seeks to further - traffic safety⁵¹ and the appearance of the

premises upon which such signs are placed." *Metromedia*, 453 U.S. at 494.

⁵⁰ The ordinance set forth the following categories of signs as exceptions to the general prohibition: (a) government signs; (b) signs located at public bus stops; (c) signs manufactured, transported, or stored within the city, if not used for advertising purposes; (d) commemorative historical plaques; (e) religious symbols; (f) signs within shopping malls; (g) for sale and for lease signs; (h) signs on public transportation vehicles; (i) signs on commercial vehicles; (j) signs depicting time, temperature, and news; (k) approved temporary, off-premises, subdivision directional signs; (l) and "temporary political campaign signs." *Id.* at 494-95.

⁵¹ In support of this conclusion, the Court cited to *Railway Express Agency, Inc. v. New York*, 336 U.S. 106 (1949). In *Railway Express*, New York City passed a regulation banning advertising on vehicles. 336 U.S. at 107-108. The plaintiff, a national company that sold advertising

(Continued on following page)

city⁵² – are substantial governmental goals.” *Id.* at 507-08. As to the fourth prong, the Court explicitly rejected the plaintiff’s argument that the ordinance was overly broad, stating:

If the city has a sufficient basis for believing that billboards are traffic hazards and are unattractive, then obviously the most direct and perhaps the only effective approach to solving the problems they create is to prohibit them. The city has gone no further than necessary in seeking to meet its end: It has not prohibited all billboards,

space on the side of its trucks, argued that the regulation violated the equal protection clause of the Fourteenth Amendment. *Id.* at 109-10. In upholding the regulation on that ground, the Court upheld a local municipality’s right to determine what constituted a traffic hazard. *Id.* at 109. Specifically, the Court stated that it was not the Court’s “function to pass judgment on [the city’s] wisdom. We would be trespassing on one of the most intensely local and specialized of all municipal problems if we held that this regulation had no relation to the traffic problem of New York City. It is the judgment of the local authorities that it does have such a relation. And nothing has been advanced which shows that to be palpably false.” *Id.* (internal citations omitted) Moreover, the Court stated that even though the regulation did not ban all distractions, this omission did not invalidate it because “[i]t is no requirement of equal protection that all evils of the same genus be eradicated or none at all.” *Id.* at 466 (citing *Central Lumber Co. v. South Dakota*, 226 U.S. 157, 160 (1912)).

⁵² In support of this conclusion, the Court referenced the following precedent: (1) *Penn Central Transp. Co. v. New York City*, 438 U.S. 104 (1978) (reaffirming prior holdings that local governments may enact legislation intended to maintain the character and aesthetics of a municipality.); (2) *Village of Belle Terre v. Boraas*, 416 U.S. 1 (1974) (upholding an ordinance that restricted land use to one-family dwellings on the grounds that a city’s police powers encompass maintaining esthetics and societal values.); (3) *Berman v. Parker*, 348 U.S. 26, 33 (1954) (holding that “[i]t is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled.”)

but allows onsite advertising and some other specifically exempted signs.

Id. at 508.

Finally, the Court turned its analysis to the third prong, what is considered the "more serious question," and reasoned as follows:

In the first place, whether onsite advertising is permitted or not, the prohibition of offsite advertising is directly related to the state [sic] objectives of traffic safety and esthetics. This is not altered by the fact that the ordinance is underinclusive because it permits onsite advertising. Second, the city may believe that offsite advertising, with [its] periodically changing content, presents a more acute problem than does onsite advertising. Third, San Diego has obviously chosen to value one kind of commercial speech – onsite advertising – more than another kind of commercial speech – offsite advertising. The ordinance reflects a decision by the city that the former interest, but not the latter, is stronger than the city's interest in traffic safety and esthetics. The city has decided that in a limited instance – onsite commercial advertising – its interests should yield. We do not reject that judgment. As we see it, the city could reasonably conclude that a commercial enterprise – as well as the interested public – has a stronger interest in identifying its place of business and advertising the product or services available there than it has in using or leasing its available space for the purpose of advertising commercial enterprises located elsewhere. *It does not follow from the fact that the city has concluded that some commercial interests outweigh*

its municipal interests in this context that it must give similar weight to all other commercial advertising.

Id. at 511-12 (emphasis added). Therefore, the Court held that "[i]n light of the above analysis, we cannot conclude that the city has drawn an ordinance broader than is necessary to meet its interest, or that it fails directly to advance substantial government interests. In sum, insofar as it regulates commercial speech the San Diego ordinance meets the constitutional requirements of *Central Hudson*. . . ." *Id.* at 511-12.

Here, National seeks to divert this Court's attention from binding Supreme Court precedent laid out in *Metromedia* by arguing that the City's Zoning Ordinance fails to pass muster under the *Central Hudson* test in light of two recent Supreme Court opinions: *Edenfield v. Fane*, 507 U.S. 761 (1993) and *Greater New Orleans Broad. Ass'n v. United States*, 527 U.S. 173 (1999).⁵³ First, National argues that pursuant to *Edenfield*,⁵⁴ the city's asserted

⁵³ (Pl.'s Mem. in Supp. of Mot. for Summ. J., 01-3039-CIV DE # 117, at 11.)

⁵⁴ In *Edenfield*, the state passed legislation that banned in-person solicitation by certified public accountants ("CPAs"). 507 U.S. at 763. In support of this ban, the state set forth two interests: (1) "protecting consumers from fraud or overreaching by CPA's," and (2) "maintain[ing] both the fact and appearance of CPA independence in auditing a business and attesting to its financial statements." *Id.* at 768. The Court held that although these interests might be substantial interests, a complete ban on such solicitation did not meet the third prong of *Central Hudson*; namely, directly advancing those governmental interests. *Id.* at 770. Specifically, the Court stated that the state had "not demonstrated that, as applied in the business context, the ban on CPA solicitation advances its asserted interests in any direct and material way." *Id.* 771.

interests in traffic safety and esthetics are not directly advanced by the Ordinance and therefore, do not meet the third prong of *Central Hudson* because the City "cannot justify [its] ban on offsite signs."⁵⁵ Next, National argues that pursuant to *Greater New Orleans*,⁵⁶ the City has not carefully calculated the costs and benefits associated with implementation of the Ordinance and, as such, the Ordinance does not satisfy the fourth prong of the *Central Hudson* test. (*Id.*)

However, after carefully analyzing *Edenfield* and *Greater New Orleans* in light of the facts of the instant case, this Court finds that National's reliance on those opinions is misplaced. The Supreme Court struck down the legislation in those cases because either (1) the interests set forth were not directly advanced by the statute in

⁵⁵ (*Id.* (citing *Edenfield*, 507 U.S. at 771.))

⁵⁶ In *Greater New Orleans*, the plaintiff challenged 18 U.S.C. § 1304 on First Amendment grounds. 527 U.S. at 181. Section 1304 effectively banned advertisements of private casino gambling broadcast by radio or television stations regardless of where the stations and/or casinos were located. *Id.* at 178-182. In defending the constitutionality of Section 1304, the government identified the following interests advanced by that section: (1) "reducing the social costs associated with 'gambling' or 'casino gambling,'" and (2) "assisting States that 'restrict gambling' or 'prohibit casino gambling' within their own borders." *Id.* at 185. In recognizing that these interests constitute substantial government interests, the Court noted that they are not self-evident as a result of "Congress' unwillingness to adopt a single national policy that consistently endorses either interest asserted by the Solicitor General." *Id.* at 187. As a result, after applying the *Central Hudson* analysis, the Court struck down the statute as unconstitutional, and held that the government failed to show how the statute directly advanced its stated interests. *Id.* at 188-96. In so holding, the Court noted that "[t]he operation of § 1304 and its attendant regulatory regime is so pierced by exemptions and inconsistencies that the government cannot hope to exonerate it." *Id.* at 190.

question,⁵⁷ or (2) the statute was overly broad.⁵⁸ However, both cases are factually distinguishable from the instant case in that the government's asserted interests in those cases are unrelated to the interests the City of Miami asserts as justification for the Zoning Ordinance. See *supra* note 54; See *infra* note 56. Therefore, this Court finds that its application of the *Central Hudson* test must be guided by *Metromedia*, rather than *Edenfield* and *Greater New Orleans*, because the facts in *Metromedia* are parallel to the facts in this case.

Here, like in *Metromedia*, the City is enforcing an Ordinance that effectively bans offsite commercial speech while allowing onsite commercial speech in order to promote traffic safety and esthetics. National is arguing, like the plaintiff in *Metromedia*, that this disparity results in some commercial speech – onsite commercial – being favored over other commercial speech – offsite commercial. However, *Metromedia* explicitly held that this disparity is allowed. Yet, National reasserts the arguments set forth by the plaintiff and rejected by the Court in *Metromedia* that the Ordinance must be struck down as unconstitutional because it fails to pass muster under the third and fourth prongs of *Central Hudson*.

As to the third prong, National argues that the Ordinance does not directly advances [sic] its stated interests because the City has not provided evidence showing that billboards are connected to traffic safety and esthetics, or that offsite signs are harmful at all. However, National

⁵⁷ See *supra* note 54.

⁵⁸ See *supra* note 56.

fails to recognize that the reasoning in *Metromedia* explicitly rejects this argument. Here, among the 14 specified purposes of the Ordinance,⁵⁹ the City asserts a desire to ensure traffic safety and "provide a wholesome, serviceable, and attractive community." MIAMI, FLA., ZONING ORDINANCE § 120 (1991). Contrary to National's argument, this Court does not find that the City must conduct expensive research to conclude that offsite commercials [sic] signs pose a threat to traffic safety and esthetics. On the contrary, this Court hesitates, as the Supreme Court in *Metromedia* hesitated, to question or challenge the reasonable conclusion of the City's local legislators that offsite signs pose a threat to traffic safety. See *Metromedia*, 453 U.S. at 509. Moreover, similar to the *Metromedia* Court, this Court finds that it is not unreasonable for those lawmakers to conclude that offsite signs in themselves constitute an esthetic harm wherever they are located or placed.⁶⁰ See *id.* at 510. Therefore, this Court concludes that the Zoning Ordinance at issue directly advances the City's interests in maintaining traffic safety and esthetics by prohibiting offsite signs.

Finally, as to the fourth prong, this Court disagrees with National's argument that the Ordinance must indicate that the City carefully calculated the costs and benefits associated with prohibiting offsite signs. See discussion *supra*. The fourth prong of *Central Hudson*

⁵⁹ See *supra* note 2.

⁶⁰ In fact, the Eleventh Circuit in *Harnish v. Manatee County*, explicitly noted that *Metromedia* and its progeny conclusively established that "[a]esthetics is a substantial governmental goal which is entitled to and should be accorded weighty respect." 783 F.2d 1535, 1539 (11th Cir. 1986).

requires that the ordinance be no more extensive than necessary to achieve its interests. 447 U.S. at 566. Here, the City of Miami has concluded that offsite signs pose a threat, and it has directly banned those signs. Following the Supreme Court's reasoning in *Metromedia*, this Court finds that the City's failure to also ban onsite commercial signs does not cause the Ordinance to be overly broad. On the contrary, the City of Miami, just like the city in *Metromedia*, has "gone no further than necessary in seeking to meet its ends. Indeed, it has stopped short of fully accomplishing its ends: It has not prohibited all billboards, but allows onsite advertising and some other specifically exempted signs." *Metromedia*, 453 U.S. at 508. Thus, this Court concludes that the Ordinance is no more extensive than necessary to achieve the City's stated purposes.

Accordingly, this Court finds that the Zoning Ordinance, as it relates to onsite-offsite commercial signs, is constitutional pursuant to the *Central Hudson* test because: (1) there is no evidence indicating that the commercial speech at issue concerns unlawful activity or is misleading; (2) the Ordinance asserts the substantial governmental interests of maintaining traffic safety and esthetics; (3) the Ordinance directly advances these governmental interests by banning offsite signs; and (4) the Ordinance is no more extensive than necessary to achieve the states interests even though it allows onsite signs.

2. The Zoning Ordinance does not unconstitutionally discriminate against noncommercial speech

This Court has clearly and unequivocally held that National does not have standing to assert a facial challenge to the provisions of the Ordinance that affect noncommercial speech, because it lacks a "substantial interest" in such speech. See discussion *supra* Part V.A.2. However, because of the lack of clarity in First Amendment case law, this Court has carefully analyzed the provisions of the Zoning Ordinance that affect noncommercial speech. After careful consideration, the Court concludes that those provisions of the Ordinance affecting noncommercial speech do not constitute an unconstitutional content-based restriction, rather the Ordinance is a content-neutral regulation that governs structures rather than restricts speech.

a. Noncommercial Speech v. Commercial Speech

National claims that the City's Zoning Ordinance is an unconstitutional content-based regulation that favors commercial speech over noncommercial speech. In support of this argument, National cites to provisions in the Ordinance that allow onsite signs and prohibit offsite signs. See *supra* note 43. One of the provisions National is challenging regulates signs in the C-1 Restricted Commercial zoning district, and contains similar language as some of the other challenged provisions:

Onsite signs only shall be permitted in these districts, subject to the following requirements and limitations. Except as otherwise provided, such signs may be illuminated but shall not be

animated or flashing. At retail or service establishments, in addition to identifying the principal business, commodity or service, such signs may devote not more than half of their actual aggregate to the advertising of subsidiary products sold or services rendered on the premises.

MIAMI, FLA. ZONING ORDINANCE § 401 at 128. The Ordinance defines onsite signs as "[a] sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. Onsite signs shall not be construed to include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business." *Id.* § 2502 at 713 (emphasis added). Relatedly, the Ordinance defines offsite signs as "[a] sign other than an onsite sign. The term includes, *but is not limited to*, signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business." *Id.* § 2502 at 712 (emphasis added).

The Eleventh Circuit has specifically considered whether an ordinance that prohibits offsite signs and allows onsite signs unconstitutionally discriminates against noncommercial speech. *Southlake*, 112 F.3d 1114. In *Southlake*, the plaintiff sought to erect four offsite outdoor advertising billboards in the City of Morrow. *Id.* at 1115. Morrow's sign ordinance prohibited billboards, defined as any "sign which advertises a commodity, product, service, activity or any other person, place, or thing, which is not located, found or sold on the premises upon which the sign is located." *Id.* at 1115, 1117. The plaintiff claimed that the ordinance was facially unconstitutional because (1) it impermissibly regulated commercial speech, and (2) it unconstitutionally burdened noncommercial speech through its onsite-offsite distinction. *Id.* at 1115.

In analyzing the plaintiff's claim, the Eleventh Circuit asserted that the onsite-offsite distinction in the commercial speech context is straightforward, readily ascertainable, and constitutional. *Id.* (citing *Metromedia*, 453 U.S. at 512). On the other hand, the court noted that "[l]ocating the site of noncommercial speech . . . is fraught with ambiguity" because "[n]oncommercial speech usually expresses an idea, an aim, an aspiration, a purpose, or a viewpoint. Where is such an idea located? What is the site upon which the aspiration is found?" *Id.* at 1119. In wrestling with this ambiguity, the court considered and unambiguously rejected the First Circuit's reasoning in *Ackerley* that "[t]he only signs containing noncommercial messages that are [onsite] are those relating to the premises on which they stand, which inevitably will mean signs identifying nonprofit institutions." *Id.* (quoting *Ackerley Communications of Mass., Inc. v. City of Cambridge*, 88 F.3d 33, 37 (1st Cir. 1996)). The Eleventh Circuit noted that the *Ackerley* view unduly restricts onsite noncommercial speech to places where "some organized activity associated with the idea espoused is located or found."⁶¹ *Id.* In fact, the court reasoned that application of the view espoused in *Ackerley* would mean that any ordinance prohibiting offsite signs would ban, with few exceptions, all noncommercial messages, and must then be declared void. *Id.* The court warned that this result is contrary to the well-established notion that when evaluating facial challenges to an ordinance, any ambiguities must be construed "in a

⁶¹ The Eleventh Circuit noted that under this view "speech advocating racial bigotry is onsite at a Klavern of the Klan; 'Save the Whales' is onsite where Greenpeace has an office; and 'Jesus Saves' is displayed onsite only where a Christian religious organization is operating." *Southlake*, 112 F.3d at 1119.

manner which avoids any constitutional problems." *Id.* (citing *American Booksellers v. Webb*, 919 F.2d 1493, 1500 (11th Cir. 1990) and *EEOC v. Southwestern Baptist Theological Seminary*, 651 F.2d 277, 285 (5th Cir. 1981)).

In evaluating the *Ackerley* view, the Eleventh Circuit concluded that "[t]here is . . . no logical reason to interpret the ordinance as locating the expression of ideas, aspirations, and beliefs in this way." *Id.* at 1117. Instead, the Eleventh Circuit espoused its own alternative view and stated that "[a]n idea, unlike a product, may be viewed as located wherever the idea is expressed, i.e., wherever the speaker is located. Under this alternative view, *all non-commercial speech is onsite. A sign bearing a noncommercial message is onsite wherever the speaker places it.*" *Id.* at 1117-18 (emphasis added). The Eleventh Circuit then applied this alternative view to the Morrow ordinance and stated as follows:

Although Morrow's definition of billboard does not explicitly exclude noncommercial speech it defines billboards as a sign containing an offsite message. Under the [Eleventh Circuit's] alternative view of the onsite-offsite distinction, a 'billboard' would not include a sign carrying a noncommercial message. Offsite noncommercial signs, therefore, would not be prohibited. This result is consistent with Morrow's enforcement of its ordinance.

Id. at 1119. Thus, the Eleventh Circuit upheld the Morrow ordinance, and reasoned that the onsite-offsite distinction does not impermissibly restrain noncommercial speech because "[t]he definition of billboard as an offsite advertising sign does not include noncommercial speech as such speech is onsite." *Id.*

National would like this Court to disregard the binding precedent set forth by the Eleventh Circuit in *Southlake*, and instead enter judgment as a matter of law for National pursuant to the First Circuit's rationale in *Ackerley* and three decisions⁶² rendered by other judges in this district.⁶³ However, National fails to recognize that its reliance on *Ackerley* and the three district cases is misplaced. As explained above, the Eleventh Circuit has explicitly rejected the First Circuit's reasoning in *Ackerley* that noncommercial speech is almost always offsite, and instead unambiguously adopted the *opposite view* that all noncommercial speech is onsite. *Southlake*, 112 F.3d at 1118-19.

Moreover, National's reliance on Judge Middlebrooks's opinion, in *Florida Outdoor Adver., LLC v. Boynton Beach*, 182 F. Supp. 2d 1201 (S.D. Fla. 2001), Judge Ungaro-Benages's Omnibus Order in *Wilton Manors Street Sys. v. Wilton Manors*, No. 00-6186-CIV-UNGARO-BENAGES (S.D. Fla. Dec. 5, 2000), and Judge Zloch's Omnibus Order in *Coral Springs Street Sys. v. Sunrise, Florida*, No. 01-7951-CIV-ZLOCH (S.D. Fla. Feb. 21, 2003), is also misplaced. In its current Motion, National argues that this Court should strike down the City's Zoning Ordinance as unconstitutional on the basis that Judges Middlebrooks, Ungaro-Benages, and Zloch, in cases dealing with sign

⁶² Judge Middlebrooks's opinion in *Florida Outdoor Adver., LLC v. Boynton Beach*, 182 F. Supp. 2d 1201 (S.D. Fla. 2001), Judge Ungaro-Benages's Omnibus Order in *Wilton Manors Street Sys. v. Wilton Manors*, No. 00-6186-CIV-UNGARO-BENAGES (S.D. Fla. Dec. 5, 2000), and Judge Zloch's Omnibus Order in *Coral Springs Street Sys. v. Sunrise, Florida*, No. 01-7951-CIV-ZLOCH (S.D. Fla. Feb. 21, 2003)

⁶³ (Pl.'s Mem. In Supp. of Mot. for Summ. J., 01-3039-CIV DE # 117, at 4 n.7, 7-8.)

codes "which contained very similar provisions to the City's Sign Code provisions at issue," found such codes to be facially unconstitutional.⁶⁴

After reviewing of these opinions, this Court notes that not one of them references *Southlake*, perhaps because the parties failed to bring it to the courts' attention. Nonetheless, this Court concludes that clear and concrete parallels cannot be drawn between the sign codes in each of these cases and the Zoning Ordinance in the instant case.⁶⁵ Each sign code and zoning ordinance contains specific and precise language. In considering facial challenges to an ordinance, a court's interpretation of the ordinance's constitutionality, or lack thereof, turns on that language. When evaluating such challenges on First Amendment grounds, each court must render decisions on a case-by-case basis, after careful consideration of the specific provisions of the ordinance in question. As a result, this Court is not dissuaded from applying its own interpretation of *Southlake* to the facts of the instant case merely because Judges Middlebrooks, Ungaro-Benages, and Zloch (whose opinions in those cases make no reference to *Southlake*) found that the language of the individual sign codes in their cases violated the First Amendment.

⁶⁴ (Pl.'s Mem. In Supp. of Mot. for Summ. J., 01-3039-CIV DE # 117, at 5.)

⁶⁵ Copies of the sign codes at issue in those cases are not attached to the opinions, and the exact language of the ordinance upon which the courts' conclusions are based is not included in the opinions. Therefore, this Court is not able to make a comparison between the exact language of those codes and the Ordinance in the instant case.

Thus, contrary to National's contention, this Court must rely upon and apply the reasoning espoused in *Southlake* because the case is binding and directly on point in the instant case. Here, like the plaintiff in *Southlake*, National argues that the Zoning Ordinance is unconstitutional because its ban of offsite signs prohibits noncommercial messages from being displayed.⁶⁶ The Ordinance defines an offsite sign as "a sign other than on [sic] onsite sign." MIAMI, FLA., ZONING ORDINANCE §2502 at 712. The definitions of onsite and offsite signs are ambiguous in that the signs are not qualified by their commercial or noncommercial nature. *See Id.* at 712, 713. However, according to the Eleventh Circuit's reasoning in *Southlake*, "all noncommercial speech is onsite." 112 F.3d at 1117-18.

Therefore, this Court finds that: (1) the Ordinance's ban against offsite signs cannot be read to mean that noncommercial messages are prohibited because noncommercial speech is always onsite; and (2) the definition of onsite signs can be read to include noncommercial messages, so that the provisions providing for "onsite signs only" specifically allow noncommercial messages. This construction interprets all ambiguities in a manner that avoids constitutional infirmities and as such is in accordance with the Eleventh Circuit's holding in *Southlake*. Accordingly, this Court upholds the Zoning Ordinance's prohibition of offsite signs because its onsite-offsite distinction does not unconstitutionally favor commercial speech over noncommercial speech.

⁶⁶ (Pl.'s Mem. In Supp. of Mot. for Summ. J., 01-3039-CIV DE # 117, at 4-6.)

b. The Zoning Ordinance does not unconstitutionally discriminate between different types of noncommercial speech

In addition, National argues that the Zoning Ordinance is void because 57 different provisions throughout the Ordinance unconstitutionally favor some forms of noncommercial speech over others. *See supra* note 44. These provisions can be divided into two separate groups: (1) provisions regulating signs in the various zoning and special districts ("the regulations"), and (2) provisions exempting certain signs from the permitting process ("the exemptions").⁶⁷ *See infra* note 71.

(i) The regulations do not unconstitutionally favor different types of noncommercial speech

National cites *Metromedia* in support of its challenge to the regulations. However, the facts and holding of *Metromedia* are easily distinguishable from the instant case. As discussed above, the ordinance in *Metromedia* prohibited all offsite noncommercial messages, but delineated 12 specific exceptions.⁶⁸ 453 U.S. at 494-96, 514. The Supreme Court found the exceptions unconstitutional. *Id.*

⁶⁷ Because National's current action presents a facial challenge on First Amendment grounds to the City's Zoning Ordinance, this Court has specifically referred to each of the challenged provisions. A review of the provisions regulating signs in the various districts reveals that the language of those provisions is repetitive throughout the Ordinance for the different districts. Therefore, this Court will specifically address and analyze the regulations for the C-1 district as representative of those provisions for the sake of clarity and to avoid repetition.

⁶⁸ *See supra* note 50.

at 514. In so doing, the Court noted that except for the 12 types of signs specifically allowed, "[n]o other noncommercial or ideological signs meeting the structural definition [were] permitted, regardless of their effect on traffic safety or esthetics." *Id.* Thus, the Court held that the ordinance violated the First Amendment because "[a]lthough the city may distinguish between the relative value of different categories of commercial speech, the city does not have the same range of choice in the area of noncommercial speech to evaluate the strength of, or distinguish between, various communicative interests." *Id.* at 514.

Here, unlike in *Metromedia*, the Ordinance does not specifically ban noncommercial speech. On the contrary, in light of *Southlake*, the Ordinance's allowance of onsite signs specifically provides for noncommercial messages. See *supra* Part V.B.2.a. Nevertheless, the City may constitutionally limit the size and placement of sign structures so long as the signs are not restricted based on their content or viewpoint. This Court has carefully reviewed the challenged provisions and concludes that the provisions regulating sign structures in the various districts (i.e., section 401 and Article 9) are content-neutral zoning regulations intended to regulate structures, rather than to suppress speech. The C-1 Restricted Commercial district is one of the numerous zoning districts that is regulated by the provisions set forth in section 401.⁶⁹ In the C-1 district

⁶⁹ The Ordinance sets forth the following sign regulations for the C-1 Restricted Commercial district:

Onsite signs only shall be permitted in these districts, subject to the following requirements and limitations. Except as otherwise provided, such signs may be illuminated but shall not be animated or flashing. At retail or service establishments, in addition to identifying the principal business,

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commodity or service, such signs may devote not more than half of their actual aggregate to the advertising of subsidiary products sold or services rendered on the premises.

1. Community or neighborhood bulletin boards or kiosks shall be permissible as provided at section 925.3.10.

2. Construction signs; not be [to] exceed one (1) construction sign or thirty (30) square feet in area, for each lot line adjacent to a street.

3. Development signs, except where combined with construction signs, shall be permissible only by Class I Special Permit as provided at section 925.3.8.

4. Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas, but shall not exceed five (5) square feet in surface area.

5. Ground or freestanding signs, limited to one (1) sign structure with not to exceed two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each fifty (50) feet of store frontage. Permitted sign area shall be cumulative, but no sign surface shall exceed one hundred (100) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the zoning administrator at his discretion may increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

6. Marquee signs, limited to one (1) per establishment and three (3) square feet in area.

7. Projecting signs (other than marquee signs) shall be limited to one (1) sign structure with not to exceed two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area; provided, however, that such permissible sign area shall be increased in C-1 districts to eighty (80) square feet where maximum projection from the face of the building is two (2) feet or less, sixty (60) square feet where projection is more than two (2) and less than three (3) feet, and forty (40) square feet where projection is at least three (3), but not more than four (4) feet.

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sign structures have certain height, square footage and placement requirements. *See supra* note 54. There is no indication that the challenged portions of section 401 and Article 9 restrict the content of the sign structures. Therefore, unlike the exceptions in *Metromedia*, the challenged provisions in this case do not exempt certain signs from an otherwise total ban.

In further support of this challenge to the regulations, National targets the provisions of the Ordinance relating to the temporary placement of political and civic campaign signs. National argues that it is unconstitutional for the Ordinance to allow those signs but disallow other non-commercial messages. However, this Court does not interpret the Ordinance to mean that temporary political

8. Real estate signs, limited to one (1) per street frontage and not to exceed half the area permissible for the same type of permanent sign on the premises.

9. Temporary civic and political campaign signs [sic] are allowed, subject to the exceptions, limitations and responsibilities of subsections 925.3.11, 925.3.12 and 925.3.13 respectively.

10. Wall signs, limited to two and one-half ($2\frac{1}{2}$) square feet of sign area for each lineal foot of wall fronting on a street is [sic] any portion of such sign is below fifteen (15) feet above grade. For each foot that the lowest portion of such sign exceeds fifteen (15) feet, permitted sign area shall be increased one (1) percent. Not more than three (3) such signs shall be permitted for each frontage on which area calculations are based, but one (1) of these may be mounted on a side wall.

11. Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

and civic campaigns signs are the only noncommercial signs allowed in those districts. Instead, the Ordinance merely requires removal of such signs upon the conclusion of the relevant election. Therefore, this Court finds that these provisions restrict rather than empower speech related to political and civic campaigns by requiring their prompt removal at a certain point in time.

Even though this interpretation of the provisions now appears to restrict political speech, at least two courts have held that a city may constitutionally set a reasonable time limit for residents to remove election-related signs after the conclusion of an election. *Granite State Outdoor Adver.*, 213 F. Supp. 2d at 1337; *see also Collier v. City of Tacoma*, 854 P.2d 1046, 1057 (Wash. 1993). This finding is justified by the fact that political and civic campaign signs cease to exist as speech at the conclusion of the election.⁷⁰ Therefore, cities may constitutionally enforce such removal requirements in order to advance esthetic interests, which is exactly the case here.

Accordingly, this Court finds that the provisions regulating signs in the various zoning districts (e.g., section 401 and Article 9) do not unconstitutionally favor commercial over noncommercial speech.

⁷⁰ Signs supporting particular campaigns during an election must be displayed during a specified and limited time period, otherwise the message is no longer protected speech because it loses its purpose (e.g., displaying a "Clinton/Gore '96" Election sign in 1997).

(ii) The exemptions do not unconstitutionally express a preference for certain types of noncommercial speech over others

National cites the exemption provisions⁷¹ to support its argument that the Ordinance favors some noncommercial messages over others. However, binding Eleventh Circuit precedent requires the Court to reject this argument. In *Messer v. City of Douglasville*, the Eleventh Circuit upheld a permit exemption scheme⁷² that was very similar to the scheme at issue in this case. 975 F.2d 1205, 1511 (11th Cir. 1992). In that case, the plaintiff argued that, as in *Metromedia*, "the [Douglasville] ordinance distinguish[ed] between different types of noncommercial messages, and exempt[ed] certain noncommercial messages from permitting requirements based on their content, resulting in an unconstitutional content-based restriction

⁷¹ Section 925.3 exempts the following signs from permit requirements: (1) government signs; (2) national flags and flags of political subdivisions; (3) decorative flags, bunting, decorations; (4) symbolic flags, award flags, house flags; (5) address, notice, directional and warning signs; (6) vehicle signs; (7) real estate signs; (8) certain construction and development signs; (9) balloons; (10) signs posted on community or neighborhood bulletin boards or kiosks; (11) temporary civic campaign signs; (12) temporary political campaign signs; (13) cornerstones, memorials, or tablets; (14) mailboxes; (15) signs on bus shelters, benches, trash receptacles; (16) weather flags; (17) church identification signs; (18) freestanding perimeter wall signs identifying developments.

⁷² The Douglasville ordinance exempting the following signs from the permitting process: "1) wall sign per building side announcing the business and attached to the side of the building, 2) one real estate "for sale" sign per property frontage, 3) one bulletin boards [sic] located on religious, public, charitable or educational premises, 4) one construction identification sign, and 5) directional traffic signs containing no advertisements." *Messer*, 975 F.2d at 1511.

on the noncommercial messages not so exempted." *Id.* at 512 [sic] (emphasis added). In analyzing the plaintiff's argument, the court noted that in *Metromedia* the "plurality struck the San Diego ordinance because it had a system of exceptions to the general ban on non-commercial billboards which violated the First Amendment." *Id.* at 1512. However, the court distinguished the exemptions in *Messer* by stating that "the Douglasville exemptions are not exemptions from a general ban of all off-premise billboards, but from permitting requirements and permits fees." *Id.* at 1513. Moreover, the court stated that the exemptions do not express a preference between different types of noncommercial messages, and in fact "favor[] noncommercial over commercial messages by expressly deregulating messages by noncommercial speakers." *Id.* Here, like the ordinance in *Messer*, exemption from the permitting process does not constitute an exception to a general ban of noncommercial messages. See *supra* note 71. Therefore, in accordance with *Messer*, this Court rejects National's arguments with regard to all but one of the permit exemptions.

The lone permit exemption not explicitly protected by *Messer* is the exemption for temporary political and civic campaign signs.⁷³ See *supra* note 71. Political speech lies at the core of the First Amendment and is afforded its broadest protection. *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334, 346-47 (1995) (quoting *Roth v. United States*, 347 U.S. 476, 484 (1957)); see also *Buckley v. Valeo*, 424 U.S. 1, 14 (1976). To require permits for campaign related signs would ignore the substantial time pressure that pervades

⁷³ None of the exemptions at issue in *Messer* addressed political, historical or religious signs. 975 F.2d at 1513.

every campaign. Thus, it is only by allowing this speech to appear in an accelerated fashion that the Ordinance is able to give such speech the protection it warrants. Had the City required permits for these temporary signs, citizens would undoubtedly have sued the City for violating their First Amendment rights to political speech. If this Court accepts National's argument and strikes the permit exemption for temporary political and civic campaign signs, the Ordinance would accord First Amendment rights less protection, not more.

Accordingly, this Court finds that the permit exemption scheme as set forth in the Ordinance does not unconstitutionally favor some forms of noncommercial speech over other. Rather, the Ordinance as it now stands gives the core of First Amendment speech the protection it deserves.

3. The Ordinance is a constitutional content-neutral zoning ordinance intended to regulate structures, not speech

National argues that this Ordinance must be struck down as an unconstitutional content-based restriction on speech pursuant to the Supreme Court's reasoning in *Metromedia*, the seminal case involving First Amendment issues and billboard signs. This Court disagrees. There is no question that First Amendment precedent, including *Metromedia*, clearly establishes the general rule that the government cannot "regulate speech in ways that favor some viewpoints or ideas at the expense of others." *Taxpayers for Vincent*, 466 U.S. at 804. However, this general rule is not applicable in cases where "there is not even a hint of bias or censorship in the [c]ity's enactment or enforcement of [the] ordinance." *Id.* This is particularly

true where "[t]he text of the ordinance is neutral-indeed it is silent-concerning any speaker's point of view" *Id.* Instead, such viewpoint neutral ordinances must be evaluated pursuant to the framework set forth in *United States v. O'Brien*, 391 U.S. 367 (1968), and reaffirmed in *Taxpayers for Vincent*, 466 U.S. at 804-05, a post-*Metromedia* opinion. In *O'Brien*, the Court held that a viewpoint-neutral ordinance is constitutional if: (1) it is within the constitutional power of the government; (2) it furthers an important or substantial governmental interest; (3) the governmental interest is unrelated to the suppression of free expression; and (4) any incidental restriction on First Amendment rights is no greater than what is essential to further that interest. 391 U.S. at 377.

After carefully considering each of National's arguments, this Court concludes that the City's Zoning Ordinance constitutes a content-neutral regulation intended solely to regulate structures, not to suppress speech. Here, the language of the Ordinance sets forth specific objectives the City set out to attain through its implementation. The Ordinance delineates the different zoning regulations applicable in each district and the various zoning procedures and processes governing application of those regulations. Thus, in light of the previous in-depth analysis, this Court finds that none of the provisions express even a hint of viewpoint bias or discrimination, and therefore the Ordinance constitutes a content-neutral regulation.

Moreover, the Ordinance passes constitutional muster under the *O'Brien* test as a content-neutral regulation. First, there is no question that the City can constitutionally enact and enforce a zoning ordinance intended to regulate land use within its boundaries. Next, the previous analysis clearly establishes that the second and third

prongs of the *O'Brien* test are satisfied. See discussion *supra* Parts V.B.1-2. Specifically, the City has a substantial interest in maintaining traffic safety and promoting aesthetics and these interests are entirely unrelated to the suppression of speech.⁷⁴ See *Metromedia*, 453 U.S. at 507-08; see also *supra* note [sic]. Moreover, by regulating the size, placement, and structural requirements of buildings and sign structures, the City is directly advancing those interests that are entirely unrelated to the suppression of speech. Finally, this Court finds that the effect that the Ordinance does have on speech, particularly offsite commercial speech, is no greater than necessary to accomplish the City's purposes. The City has determined that offsite billboards constitute a traffic safety hazard and an esthetics problem in specified zoning districts throughout the City of Miami. The Supreme Court in *Metromedia* clearly held that a city has a right to arrive at such conclusion. 453 U.S. at 511-12. Here, the tangible medium of expression (i.e., billboards), rather than the content of the billboard, is what constitutes the problem. Thus, the provisions in the Ordinance that prohibit such billboards in certain areas aim only to promote the City's interests in traffic safety and esthetics, and are no broader than necessary to achieve that end. See *supra* Part V.B.3. The City has determined that its interests should yield only to on-site commercial speech and noncommercial speech, and the Supreme Court has condoned such a determination. See *Metromedia*, 453 U.S. at 511-12. Accordingly, this

⁷⁴ This Court finds that the City's purpose as clearly expressed in section 120 of the Ordinance is completely unrelated to the suppression of speech. See *supra* note 2. Moreover, this record is devoid of any evidence showing that the Ordinance as applied is intended to suppress speech.

Court finds that the Zoning Ordinance constitutes a constitutional content-neutral zoning regulation.

4. National's challenge that the Ordinance lacks procedural safeguards

Lastly, National argues that the Ordinance is a classic speech licensing scheme that must be struck down as unconstitutional because it lacks (1) clarity with regard to the discretion of the City officials, and (2) the necessary procedural safeguards set forth in *Freedman v. Maryland*, 380 U.S. 51 (1965).⁷⁵ In *Freedman*, the Supreme Court struck down a state law that required motion pictures to obtain a license prior to release. 380 U.S. at 58. The Board that issued the licenses had the exclusive authority to deny a license on the basis that the film was "obscene" or "'tend[ed], in the judgment of the Board, to debase or corrupt morals or incite to crimes.'" *Id.* at 58, n.2. In that case, the Court explicitly held that for such a speech licensing scheme to be constitutional, it must have the following procedural requirements in place: "(1) any restraint prior to judicial review can be imposed only for a specified brief period during which the status quo must be maintained; (2) expeditious judicial review of that decision must be available; and (3) the censor must bear the burden of going to court to suppress the speech and must bear the burden of proof once in court." *FW/PBS, Inc. v. Dallas*, 493 U.S. 215, 227 (1990) (citing *Freedman*, 380 U.S. 58-60.) However, in *Thomas v. Chicago Park Dist.*, the Supreme Court clearly stated that the stringent

⁷⁵ (Pl.'s Mem. In Supp. of Mot. for Summ. J. 01-3039-CIV DE # 117, at 12-16.)

requirements set forth in *Freedman* do not apply when a permit scheme is content-neutral because such schemes are less threatening to the First Amendment. 112 S. Ct. 775, 779 (2002). Instead, the Court held that for such a scheme to be constitutional, it need only (1) limit the discretion of the licensing officer, and (2) render that decision "subject to effective judicial review." *Id.* at 780 (citing *Niemotko v. Maryland*, 340 U.S. 268, 271 (1951)).

Here, the Ordinance at issue is a content-neutral zoning regulation that regulates structures, not speech. *See supra* Part V.B.3. Its permit scheme aims to enforce the various structural requirements (e.g., height, lighting, square footage, etc.) set forth in the Ordinance, but does not regulate the speech that can be displayed on structures on the basis of its content or specific viewpoint. Thus, contrary to National's assertion, the Ordinance need not satisfy the very stringent *Freedman* requirements.

In light of this distinction, the Ordinance contains sufficient procedural requirements to survive constitutional review. First, City officials cannot exercise unbridled discretion. On the contrary, an official's decision to either grant or deny a permit is expressly limited by the requirements set forth in the Ordinance. MIAMI, FLA., ZONING ORDINANCE §§ 2101.2, 2102.2, at 607-08. Specifically, an official may only deny a permit to build a structure if the structure fails to meet the concrete and specific requirements clearly set forth in the Ordinance for that specific zoning district. *Id.* Officials have no discretion to deny a permit if those specific requirements are met. *Id.* Moreover, the Ordinance also provides for effective judicial review of a City official's decision to either grant or deny a permit. *Id.* §§ 1800-1807 at 557-58. Under the Ordinance, if a permit is denied, the affected applicant may appeal to

a zoning board that must grant a hearing within 45 days of the appeal. *Id.* § 1804 at 557. Thereafter, the board's decision itself may be appealed to the city commission, and ultimately, to the Florida courts. *Id.* §§ 2001-2005 at 591. Moreover, in order to assure adequate appellate review, the city official must give specific reasons for the permit denials. *Id.* § 2102.2 at 608.

For these reasons, the Zoning Ordinance's content-neutral permit scheme is constitutional pursuant to *Thomas*. Accordingly, the Court rejects National's argument that the Ordinance constitutes an impermissible speech licensing scheme. Instead, the Court finds that the Zoning Ordinance is a content-neutral permit scheme that adequately protects the First Amendment rights of all permit applicants.

VI. Conclusion

The Supreme Court has clearly stated that while billboards constitute "a well-established medium of communication, used to convey a broad range of different kinds of messages," the fact remains that "whatever its communicative function, the billboard remains a 'large, immobile, and permanent structure which like other structures is subject to . . . regulation.'" *Metromedia*, 453 U.S. at 501, 502 (quoting *Metromedia v. San Diego*, 26 Cal. 3d 848, 870 (Cal. 1980)). Once the dust surrounding National's First Amendment claims settles, it becomes clear that this case concerns one thing: National's commercial interest. This Court thinks that it would be counterintuitive to adopt National's position and issue a ruling intended to benefit and protect noncommercial speech, when its effect would actually be to benefit a billboard company whose sole interest and motivation in initiating this litigation is to ensure its commercial well-being.

Accordingly, after a careful review of the record, and the Court being otherwise fully advised, it is

ORDERED and ADJUDGED that National's Second Motion for Summary Judgment (DE # 116) be, and the same is hereby, DENIED. It is further

ORDERED and ADJUDGED that the City's Second Motion for Summary Judgment (DE # 112) be, and the same is hereby, GRANTED.

DONE and ORDERED in chambers at the James Lawrence King Federal Justice Building and United States Courthouse, Miami, Florida, this 25th day of September, 2003.

/s/ James Lawrence King
JAMES LAWRENCE KING
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF FLORIDA

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App. 74

[PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 03-15516

D. C. Docket No. 02-20556-CV-JLK
NATIONAL ADVERTISING CO., a Delaware corporation,
Plaintiff-Appellant,
versus
CITY OF MIAMI, a Florida municipality,
Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Florida

(Filed MARCH 21, 2005)

Before EDMONDSON, Chief Judge, WILSON, Circuit
Judge, and RESTANI*, Judge.

PER CURIAM:

In this case, we decide whether a billboard company's
challenge to a City's sign permitting procedure is ripe for
judicial review. Plaintiff-Appellant, National Advertising

* Honorable Jane A. Restani, Chief Judge, United States Court of
International Trade, sitting by designation.

Company ("National") appeals the district court's order granting final summary judgment in favor of Defendant-Appellee, the City of Miami. National, claiming that the City's refusal to grant National six permits to construct new billboards violated the First and Fourteenth Amendments to the United States Constitution, brought suit against the City. Because National never obtained an official rejection of its permit applications, we find that it failed to present the district court with a ripe case. We therefore affirm the district court's grant of summary judgment with instructions to dismiss the case without prejudice for lack of jurisdiction.

FACTUAL AND PROCEDURAL BACKGROUND

National is a Delaware corporation and a wholly-owned subsidiary of Viacom Outdoor Inc., a corporation formerly known as Infinity Outdoor, Inc. National, a leader in the outdoor advertising industry, specializing in the leasing of billboards, has operated in the City of Miami for approximately forty years. National normally constructs its billboards on either leased or purchased property and then rents space on the billboards to advertisers. National operates more than forty outdoor advertising signs in various locations throughout the City of Miami. Most of National's billboards display commercial messages, however a few of them display non-commercial, public interest messages.

In December of 2001, against the backdrop of on-going litigation between National and the City,¹ National sought

¹ In addition to this action, National filed a preceding action against the City. That case, *National Advertising Co. v. City of Miami*,
(Continued on following page)

permits to erect seven new billboards on private property located in the City of Miami. Under the City's comprehensive zoning plan, six of the seven proposed billboards were to have been located in an area zoned "C-1, commercial zone." City zoning clerks did not issue permits to National because the billboards it sought to construct exceeded the zoning ordinance's height limits for signs. In addition, the clerk orally informed National's agents that billboards were not permitted in the C-1 zone.

On February 19, 2002, National filed this action alleging that the City denied their applications because the City's "Sign Code"² prohibited offsite signs in the City's C-1 commercial zone, in violation of the First Amendment. National further alleged that the City's "Sign Code" was constitutionally suspect because it failed to contain adequate procedural guidelines and vested excessive discretion in the hands of City officials to either approve or deny applications to construct signs.

After both parties conducted discovery, they filed cross summary judgment motions in March of 2003. The district court heard arguments for both cases in August of 2003. On September 25, 2003, the district court entered summary judgment for the City in *National I* and found that

Case No. 01-03039-CV-JLK (*National I*), challenged the constitutionality of the City's Zoning Ordinance in its entirety. *National I* and *National II* were consolidated in the district court below. However, we ordered the cases to be briefed separately. In the instant case, we asked the parties to focus solely on the denial of National's permit applications.

² National makes frequent references to the City's "sign code." However, the City does not have a sign code, as such. The City does have, as required by Florida law, a comprehensive zoning code that regulates, among other things, signs and billboards.

the City's Zoning Ordinance was constitutional in all respects.³ The following day, the district court granted the City's motion for summary judgment in this action. The district court held that National's claims were not ripe pursuant to our holding in *Digital Props., Inc. v. City of Plantation*, 121 F.3d 586 (11th Cir. 1997), because National had failed to obtain a written denial of its permit application. National appeals.

STANDARD OF REVIEW

We review the district court's order granting a motion for summary judgment *de novo*. We construe all facts and make all reasonable inferences in the light most favorable to the non-moving party. *Kesinger ex rel. Estate of Kesinger v. Herrington*, 381 F.3d 1243, 1247 (11th Cir. 2004). Under FED. R. CIV. P. 56, summary judgment is proper if the pleadings, depositions, and affidavits "show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law."

DISCUSSION

The jurisdiction of federal courts is limited. The constitution dictates that the power of the federal courts is constrained by the requirement that they consider only "cases" and "controversies." U.S. CONST. art. III, § 2; see, e.g., *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 559-60, 112 S. Ct. 2130, 2136, 119 L. Ed.2d 351 (1992); *Granite*

³ We reversed the district court's entry of summary judgment in *National I* and remanded with instructions to dismiss for lack of subject matter jurisdiction after we found that subsequent amendments to the City's zoning code mooted National's claims.

State Outdoor Adver. Co. v. City of Clearwater, 351 F.3d 1112, 1116 (11th Cir. 2003). "This case-or-controversy doctrine fundamentally limits the power of federal courts in our system of government, and helps to 'identify those disputes which are appropriately resolved through judicial process.'" *Ga. State Conference of NAACP Branches v. Cox*, 183 F.3d 1259, 1262 (11th Cir. 1999) (quoting *Whitmore v. Arkansas*, 495 U.S. 149, 155, 110 S. Ct. 1717, 1722 109 L. Ed.2d 135 (1990)). In addition to the textual constitutional constraints on the power of federal courts to decide cases, we also recognize important prudential limitations. *Granite State*, 351 F.3d at 1116 (citing *Bennett v. Spear*, 520 U.S. 154, 162, 117 S. Ct. 1154, 1161, 137 L. Ed.2d 281 (1997) and *Lujan*, 504 U.S. at 560). While the constitutional aspect of our inquiry focuses on whether the Article III requirements of an actual "case or controversy" are met, the prudential aspect asks whether it is appropriate for this case to be litigated in a federal court by these parties at this time. *Hallandale Prof'l Fire Fighters Local 2238 v. City of Hallandale*, 922 F.2d 756, 759-60 (11th Cir. 1991).

When determining if a claim is ripe for judicial review, we consider both constitutional and prudential concerns. In some circumstances, although a claim may satisfy constitutional requirements, prudential concerns "counsel judicial restraint." See *Digital*, 121 F.3d at 589 (quoting *Action Alliance of Senior Citizens v. Heckler*, 789 F.2d 931, 940 n.12 (D.C. Cir. 1986)). Our inquiry focuses on whether the claim presented is "of sufficient concreteness to evidence a ripeness for review." *Id.* Strict application of the ripeness doctrine prevents federal courts from rendering impermissible advisory opinions and wasting resources through review of potential or abstract disputes. See *id.*

Our ripeness inquiry requires a two part "determination of (1) the fitness of the issues for judicial decision and (2) the hardship to the parties of withholding court consideration." *Id.* (citing *Abbott Lab. v. Gardner*, 387 U.S. 136, 148-49, 87 S. Ct. 1507, 1515-16, 18 L. Ed.2d 681 (1967); *Cheffer v. Reno*, 55 F.3d 1517, 1524 (11th Cir. 1995)). When a plaintiff is challenging a governmental act, the issues are ripe for judicial review if "a plaintiff . . . show[s] he has sustained, or is in immediate danger of sustaining, a direct injury as the result of that act." *Hallandale*, 922 F.2d at 760. As the district court correctly noted, while it is true that our review of a suit's ripeness is at its most permissive in cases concerning putative violations of the First Amendment, *id.*, that requirement may not be ignored.

We have also recognized that the ripeness doctrine not only protects courts from abusing their role within the government and engaging in speculative decision-making, but that it also protects the other branches from judicial meddling. One of the "basic rationale[s]" for the ripeness doctrine is "to protect the [administrative] agencies from judicial interference until an administrative decision has been formalized and its effects felt in a concrete way by the challenging parties." *Digital*, 121 F.3d at 590 (internal quotation marks and citations omitted). When a court is asked to review decisions of administrative agencies, it is hornbook law that courts must exercise patience and permit the administrative agency the proper time and deference for those agencies to consider the case fully.

Turning to the facts in this case, it is clear that National never properly pursued its claim through the administrative process that the City's zoning ordinance made available to them. National's claim is not ripe because it failed to obtain a final denial of its applications.

Although National's initial request for a permit was not granted by the clerks in Miami's zoning department, National never received a final, written denial of their applications. Our reasoning in *Digital* is directly on point. As we held there, "[a] challenge to the application of a city ordinance does not automatically mature at the zoning counter." *Digital*, 121 F.3d at 590.

In *Digital*, we upheld the district courts dismissal of Digital's First Amendment challenge to the constitutionality of the City of Plantation's zoning ordinance because Digital failed to present a ripe case or controversy. In that case, Digital sought to establish an adult book and video store in Plantation. Digital assumed that Plantation's zoning scheme unconstitutionally barred adult businesses from operating anywhere within the city. However, Digital applied for a building permit to remodel a pre-existing structure for the purpose of opening an adult business. At the time Digital applied, they assumed their application would be rejected. Therefore, when an "Assistant Zoning Technician" did not immediately grant its permit, Digital filed suit in federal court alleging that Plantation's zoning scheme was unconstitutional, both facially and as applied. "Digital contended that [the zoning technician's] statement impaired its constitutional rights and constituted injury-in fact." *Id.* at 589. Because Digital never obtained an actual denial of their application, the district court dismissed the suit without prejudice for lack of subject matter jurisdiction, and we affirmed that decision. *Id.* at 591.

In this case, as in *Digital*, National "at a minimum . . . had the obligation to obtain a conclusive response from someone with the knowledge and authority to speak for the City regarding the application of the zoning scheme" to National's permits. *Id.* at 590. While there is some dispute

why the City did not grant National's initial application, National failed to demonstrate that their application was conclusively *denied*. A zoning clerk's verbal statement or written notation on National's application that its proposed billboards were "too tall" or "in the wrong zone" is not conclusive evidence of a denial and does not amount to evidence of a dispute of "sufficient concreteness" for judicial review. *Id.* at 589. "Without the presentation of a binding conclusive administrative decision, no tangible controversy exists." *Id.* at 590.

The necessity of a "binding conclusive administrative decision" to ensure that the facts of a case are mature enough to permit meaningful review is amply demonstrated by this case. National has at various times (including during oral argument) claimed both that Miami's zoning ordinance is too vague for it to know what is required to get a permit and that it did not obtain a written denial because it was certain that its application would be denied. Conversely, the City has alleged that National could have pursued a number of administrative options to protest its denial or it could have merely fixed specific deficiencies in the applications they presented.⁴ It is precisely for this reason that without a "binding conclusive administrative decision, no tangible controversy exists." *Id.* As this case currently stands, a court is incapable of determining *if*, let alone why, National's applications were denied. Without that crucial information, it

⁴ It is relevant to note that National originally applied for seven permits. They were all initially rejected because the proposed billboards were too tall. Later, National resubmitted an application for a billboard that conformed to the height requirement in an area zoned C-2. The city granted National a permit to construct the billboard.

would be impossible to determine if the City's zoning ordinance violates the constitution. As in *Digital*, National's "erroneous presumptions and impatience led it to rush to the courthouse and present an insufficiently concrete claim." *Id.* at 591.

Having determined that National's claims are not fit for judicial review at this time, we turn to the second part of our inquiry: the hardship to the parties of withholding court consideration. We agree with the district court that National has failed to produce evidence demonstrating that it would sustain undue hardship as a result of withholding court consideration. It would have been far easier, and quicker, for National to have exhausted its administrative remedies or received a final written denial of its application instead of rushing to the federal courts for relief.

CONCLUSION

We agree with the district court that National fails to present an actual case or controversy that is ripe for judicial review. Therefore, we affirm the district court's entry of summary judgment. However, we instruct the district court to dismiss the case without prejudice, so that National may re-file the case if it becomes ripe at some later date.

AFFIRMED WITH INSTRUCTIONS.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

NATIONAL ADVERTISING
COMPANY,

Plaintiff,

v.

**CASE NO.
02-20556-CIV-KING**

CITY OF MIAMI,

Defendant. /

MEMORANDUM OPINION
GRANTING SUMMARY JUDGMENT

(Filed Sep. 26, 2003)

National Advertising Company, mistakenly believing that the permitting experts they employ to apply for billboard permits, had laid the essential predicate to enable their lawyers to file a constitutional challenge to the City of Miami Zoning Ordinance, filed this suit on February 21, 2002. In National's rush to the courthouse, they neglected to obtain a denial of the six permit applications they had partially processed through the City of Miami Building and Zoning Department. Waiting only to hear from a zoning clerk "he said for my future benefit, signs are not allowed in the C-1 zone. If it had been in the C-2 zone, the applications we submitted were for signs that were too tall for that zone."¹ After receiving this

¹ Testimony of Joseph Howard Little, Director of Real Estate for Florida, Georgia and the Carolinas for Plaintiff National Advertising Company testifying regarding the process National utilized in submitting the applications to the City on December 26, 2001:

(Continued on following page)

Q. After the applications had been submitted to the City of Miami, what was the next step in attempting to obtain permits for these seven locations?

A. In January, we went down to the building department, City Hall, and walked the applications through the process.

Q. If you would explain to the Court, what is that process? What do you do to push the application through?

A. Each packet gets a registration number. You show up in the morning and you take it through several of the various stations that the building department has, electrical, public works, structure and zoning.

Q. Did you obtain approvals in that process for each of the applications that were submitted?

A. Of those six we took them through each of the stations and obtained approvals up until we came to the zoning station, the sign department.

Q. At the zoning station, what happened there?

A. In each of the instances they were denied. Mr. Cajina denied them.

Q. Did he explain to you why they were being denied?

A. He did on the first packet that I took. He said for my future benefit signs are not allowed in the C-1 zone. If they had been in the C-2 zone, the applications we submitted were for signs that were too tall for that zone.

* * *

Q. After you had gotten the six applications denied, did you then submit the seventh application?

A. Yes, it was submitted to the City of January 9.

Q. What action, if any, did the City take with respect to the seventh sign application?

A. At that time it took no action.

Q. The seventh sign application, was this for a sign in a different type of zone other than the six signs?

A. Yes, it was for a sign in a C-2 zone. It appeared to me that it conformed to all aspects of the ordinance at the time and should have been issued.

(Tr. of the Evidentiary Hr'g at 14, 15 and 16, 08/28/02.)

rejection by the intake clerk during the walk through of the permit applications on January 8, 2001, National, without attempting to present the matter to the Building Official for consideration, or obtaining the written denial from the Building Official, went to their lawyer's office to commence premature preparation of this lawsuit.² This rush to the courthouse without making any effort to present the matter to the Building Official for approval or denial, and failing to get from the Building Official a final denial of the six building permit applications, constituted a fatal error mandating denial of the relief National here seeks. By treating a routine rejection by a zoning clerk of the billboard height, together with taking the clerk's volunteered words of advise [sic] for the future submission of the sign permit applications as a *denial*, National has failed in a very substantial and critical manner, to follow the law and thus is precluded from raising any constitutional issue or proceeding with any lawsuit without first meeting the basic requirement of a denial of a permit. Moreover, even if this Court were to address National's arguments on the merits, this Court has already upheld the constitutionality of the Zoning Ordinance in its Memorandum Opinion Granting Summary Judgment for the City, entered in National I, *National Adver. Co. v. City of Miami*, 287 F.Supp.2d 1349, 2003 WL 22455323 (S.D. Fla. 2003).

² Interestingly enough, the seventh application applied for on January 9, 2002, apparently met the qualifications and was granted. National Advertising Company did not see fit to resubmit the other six permit applications that had been rejected for further consideration. Had they resubmitted the applications and had they been granted, this entire lawsuit would have been avoided.

I. Factual Background

Plaintiff National Advertising Company is a Delaware corporation and a wholly owned subsidiary of Viacom Outdoor Inc., a corporation formerly known as Infinity Outdoor, Inc. National is in the business of erecting and maintaining billboard signs on property it leases. According to its own statements, National maintains both commercial and noncommercial messages on billboards that are located throughout the City of Miami.

On March 8, 1990, pursuant to section 166.011 *et seq.*, Florida Statutes and Sections 3(4), 14, & 72 of its City Charter, Defendant City of Miami adopted Ordinance No. 11,000 (the "Zoning Ordinance") that divided the City into 24 geographical areas and specified regulations applicable to property located within each area. National alleges that the Zoning Ordinance changed the City's zoning classifications and reclassified certain zones as Restricted Commercial ("C-1"). According to National, these reclassified zones had the effect of making "some or all of the offsite signs in the effected zones nonconforming with the Zoning Ordinance."³ On or about March 28, 1991, pursuant to Ordinance No. 10863, the City adopted section 107.2.2(a) of the Zoning Ordinance, which provides as follows:

³ For purposes of the instant case, National has billboard signs, or has attempted to obtain permits for signs, on property located in the following areas: (1) Restricted Commercial ("C-1"), (2) Liberal Commercial ("C-2"), (3) Central Business District ("CBD"), (4) Martin Luther King Boulevard Commercial District ("SD-1"), (5) Design Plaza Commercial-Residential District ("SD-8"), and (6) Latin Quarter Commercial-Residential and Residential District ("SD-14"). (01-3039-CIV Compl. ¶ 17; 02-20556-CIV Compl. ¶ 13.)

In any district other than residential, any sign, billboard, or commercial advertising structure which constitutes a nonconforming characteristic of use may be continued, provided no structural alterations are made thereto subject to the following limitations on such continuance: (a) Any such sign except a roof sign shall be completely removed from the premises within five (5) years from the date it became nonconforming.

The Zoning Ordinance further provides that "[n]onconforming characteristics of use shall be construed as including those where the nonconformity was created by ordinance adoption or amendment, as provided at section 1101.1, as well as those where nonconformity was created by public taking or court order, as provided at section 1101.2." (Zoning Ord., § 1107 at 424.)

In December 2001, National applied for six sign permits with the City of Miami's Building and Zoning Department.⁴

⁴ On December 21, 2001, National applied for the following three sign permits:

- (1) Permit No.: 010022180-sought to construct "a Billboard Sign" at 950 N.W. 22nd Avenue, Miami, Florida.
- (2) Permit No.: 010022178-sought to construct a "sign" at 1073 Spring Garden Road, Miami, Florida.
- (3) Permit No.: 010022176-sought to construct an "advertising display" at 301 N.W. 9 Street, Miami, Florida.

On December 26, 2001, National applied for three more permits:

- (1) Permit No.: 010022233-sought to construct an "advertising display" at 670 N.W. 44 Street, Miami, Florida.
- (2) Permit No.: 010022230-sought to construct an "advertising display" at 5245 N.W. 7 Street, Miami, Florida.
- (3) Permit No.: 010022231-sought to construct an "advertising display" at 1330 N.W. 2 Court, Miami, Florida.

(Continued on following page)

Miguel Gutierrez, Chief of Inspector Services for the City of Miami Building Department, testified on August 28, 2002, and explained the process to obtain a building permit within the City of Miami as follows:

You come in with an application. You go to the permit counter. They review the application, the licenses of the qualifier, the address, all the pertinent information. They issue you a plan number, a process number. With that process number, if it's going to be a walk through permit, you go to the walk through desk. You sign in there. You wait for all the reviewers to call you. You go see a reviewer that is needed for that particular job. After you get all the approvals you come back to the permit counter. You are issued a permit number. You go to the cashier and you pay and then you have a permit.

(Tr. of Prelim. Inj. Hr'g at 63:19-64:4, 08/28/02.) The following month, National filed for an additional seventh permit on a property located in a C-2 zone. That application was granted on March 5, 2002.

Jose L. Ferras, the Building Official for the City of Miami, testified about the walk through process as follows:

When an applicant comes through the City of Miami, depending on the particular job code, . . . their application would be reviewed by different departments. In the particular case of the sign applications or the sign permit, we have an electrical department that reviews for the electrical

On January 9, 2002, National applied for Permit No.: 025004374 for the property located at 3445 N.W. 27th Avenue. This property was zoned as a C-2 district and billboards were allowed in such a zone.

requirements. We have a historical department that reviews for the historical requirements. We have a public works department that reviews for the public works requirements, structural, which is my department, reviews for the structural requirements, and then sign, which is zoning, that reviews for the zoning requirement.

(*Id.* at 28:3-13.) Ferras then explained the grievance process available to the applicant in the event an applicant disagrees with the recommendation of any department:

A. When a rejection occurs on one or multiple departments, the rejection description or notice is given back to the applicant for them to go ahead and correct the items that are improperly submitted or not accepted by the departments.

* * *

A. If the applicant disagrees with one of the rejections of a department, normally they go and address it directly with the department head administrator or director, and try to solve their problems at that level. If they don't, then they would possibly submit their dispute in writing to me.

Q. As Building Official?

A. As Building Official.

Q. If the applicant did submit the dispute in writing to you as Building Official, what would happen?

A. If they disagreed with a department and they felt that they were right or had a valid point, I would then try to get the departments

together and try to mitigate or resolve this problem at a local level.

Q. And if you could not resolve it at a local level, what would be the next step, if any?

A. The next step from then would be that they possibly take me to the Board of Rules and Appeal to appeal my decision.

(Tr. of Prelim. Inj. Hr'g at 28:21-24, 29:3-19, 10/28/02.)

Finally, on direct examination, Ferras testified that in his capacity as Building Official, he has the ultimate authority to deny or grant a permit:

Q. As the Building Official, do you have the final and exclusive authority to deny a building permit application?

A. I do.

Q. Can the zoning department deny an application for a building permit?

A. The zoning department can reject an application, but they have no authority, under my permit building application, to deny the application.

Q. This would be true for the other departments within the City of Miami as well, for instance, Public Works?

A. That's correct.

(Tr. of Prelim. Inj. Hr'g at 23:14-24, 10/28/02.) Similarly, Gaston Cajina, the zoning inspector who reviewed National's applications, testified as follows:

Q. As zoning inspector do you have authority to deny a building permit?

A. No.

Q. As zoning inspector do you have the authority to grant a building permit?

A. No.

Q. Who has the authority to grant a building permit?

A. The Building Official.

Q. Does the Building Official also have the authority to deny a building permit?

A. Yes, it does.

Q. Is he the only person within the City of Miami who can deny a building permit?

A. That's correct.

(Tr. of Prelim. Inj. Hr'g at 70:24-71:12, 08/28/02.)

In its Complaint, Plaintiff alleges that on January 8, 2002, after walking through the six applications filed in December 2001, they were "denied" orally by the zoning clerk to whom the applications had been submitted. The lawyers have used the terms "rejection" and "denial" interchangeably. In its January 9, 2003, Order Denying Plaintiff's Motion for Preliminary Injunction, this court held that "[h]ere, the record shows National's six building permits were *not* denied by the only person who had legal authority to deny them-the Building Official." The Eleventh Circuit affirmed this Order on September 22, 2003. Thus, for purposes of this opinion, this Court finds that the zoning inspector, as per the testimony of the Building Official, has the authority to "reject" an application that can subsequently be resubmitted. The zoning inspector,

however, does not have the authority to "deny" an application; only the Building Official can do so.

Joseph H. Little, Director of Real Estate in the Southeast for Viacom Outdoor, Inc.,⁵ that he personally walked through two of the six permit applications and that the other four applications were walked through by Defendant's employees Mark Lipman and Tony Chavez. (Tr. of Prelim. Inj. Hr'g at 24:19-25, 08/28/02.) According to Little, as they were walking the applications through, they obtained approvals from each of the departments until they arrived at the zoning department. (Tr. of Prelim. Inj. Hr'g at 15:2-13, 08/28/02.) Little testified that Gaston Cajina "denied" the applications stating that "for [Little's] future benefit signs are not allowed in the C-1 zone. If they had been in the C-2 zone, the applications we submitted were for signs that were too tall for that zone." (Tr. of Prelim. Inj. Hr'g at 15:12, 15-18, 08/28/02.) Chavez and Lipman, the two individuals who walked through the other four permit applications for National, both stated in their respective depositions that Cajina "rejected" the applications. (Chavez Dep. 42:11-43:16; Lipman Dep. 48:24-49:1.) According to Chavez, Cajina was mute, "he got up, went to the computer printout, got it back and handed it to me and says [sic] you have been rejected, read it." (Chavez Dep. 42:20-43:5) Lipman stated that he did not remember exactly what Cajina said, but that "it had something to do with the height or something . . . but for whatever reason he said because of that, I cannot accept this permit and it is rejected." (Lipman Dep. 49:3-11.)

⁵ As previously stated, Plaintiff National Advertising, Inc., is a wholly owned subsidiary of Viacom Outdoor, Inc. See *supra* p. 1.

The acts and statements described above clearly indicate that the permit applications were simply rejected by clerks and were not *denied* by the only person who had authority to deny with finality a building permit, namely, the Building Official, head of the Building and Zoning Department. This Court has previously so ruled in its Order of January 9, 2003 denying National's application for preliminary injunction. Plaintiff appealed this Court's denial of preliminary injunction and the Eleventh Circuit Court of Appeals on September 22, 2003 affirmed this Court decision.

On February 21, 2002, after the permit applications were rejected by the clerk, National filed its three-count Complaint against the City in this case ("National II"), alleging that (1) the City abridged the First Amendment by acting under a void Code that discriminates against Noncommercial Speech, (2) the City abridged the First Amendment by Acting under a licensing scheme that lacks procedural safeguards, and (3) the City abridged the First Amendment by discriminating against Commercial Off-Premise Speech.

This Court entered its Memorandum Opinion and Order Granting Summary Judgment for the Defendant City of Miami on September 25, 2003 in National I. By that decision, the Court determined that National's First Amendment challenges to the Building and Zoning Code of the City of Miami were meritless and upheld the constitutionality of Zoning Ordinance No. 11,000.

The Plaintiff National Advertising Company can, of course, submit again the six building permits here at issue and obtain a final acceptance or denial by the Building Official of the City's Zoning Department.

II. Procedural Posture

A. *National II*

On February 21, 2002, National filed the case referred to as National II⁶ in response to the City's rejection of the six permit applications National submitted in December, 2001.⁷ National filed its Motion for Preliminary Injunction simultaneously with its Complaint. This Court held an evidentiary hearing on the injunction on August 28, and October 28, 2002. On January 9, 2003, this Court denied the injunction on the basis that National did not meet its burden of showing substantial likelihood of success on the merits, and National appealed on January 22, 2003. On September 22, 2003, the Eleventh Circuit affirmed this Court's January 9, 2003, Order denying National's Motion for Preliminary Injunction.

On March 3, 2003, pending resolution of National's interlocutory appeal, the parties filed Cross-Motions for Summary Judgment along with numerous Motions to Compel various discovery, a Motion to Exclude, and a

⁶ This cause is before the Court upon the parties' Cross-Motions for Summary Judgment filed March 3, 2003. (01-3039-CIV DE # 47, 53.) On April 3, 2003, Plaintiff National Advertising ("National") filed its Response to the City's Motion. On April 7, 2003, Defendant City of Miami ("the City") filed its Response to National's Motion. On April 11, 2003, the City filed its Reply to National's Motion. On April 14, 2003, National filed its Reply to the City's Motion.

⁷ As stated above, National filed the case referred to as National I Case No.: 01-3039-CIV-King, on July 11, 2001, in response to the City's enforcement proceedings against property owners with whom National had leases to erect and maintain billboards. On July 7, 2003, the parties filed Cross-Motions for Summary Judgment (01-3039-CIV DE 112, 116) relating to the factual allegations underlying National I. In order to avoid confusion, the Court has addressed the National I motions in a separate order.

Motion to Strike. The Court has ruled on all of the pending motions in National II except for the parties' Cross-Motions for Summary Judgment, which are currently pending before this Court.

B. Consolidation of National I and National II under Case No. 01-3039-CIV-King

On March 19, 2003, upon the parties' Joint Motion, this Court consolidated both National and National II and identified the consolidated action as *National Adv. v. City of Miami*, Case No. 01-3039-CIV-KING. Thus, the Renewed Motion for Preliminary Injunction filed in National I on March 3, 2003, along with the parties' Cross-Motions for Summary Judgment filed in National II on that same date, are currently pending in the Consolidated Case.⁸

III. Analysis

Judge Middlebrooks set forth an observation in one of his opinions regarding the recent trend of First Amendment litigation involving billboard companies and municipal ordinances. In *Florida Outdoor Adver. v. Boca Raton*, he was confronted with a challenge to a municipal ordinance by a billboard advertising company and he stated as follows: "[t]his is another in series of cases brought by

⁸ Moreover, on July 1, 2003, National filed its Motion for Discovery Status Conference, for Protective Order Limiting or Ending Discovery, and for Reconsideration of Prior Discovery Orders. Finally, on July 3, 2003, the deadline for motion practice as set forth in this Court's Pretrial Conference Order, the parties filed their second Cross-Motions for Summary Judgment, along with the City's Motion for Order Requiring Compliance with Discovery, and for Sanctions. All of these recently filed motions are also currently pending before this Court.

outdoor advertising companies against municipalities alleging violation of the First Amendment. The now familiar strategy is to apply for a permit for erection of a billboard knowing full well that the permit will be denied under the city's existing sign ordinance but also aware that the ordinance is subject to legal attack." Case No.: 01-8504-CIV-MIDDLEBROOKS (S.D. Fla. Jan. 14, 2003). The instant action presents a similar constitutional challenge and strikingly similar factual pattern.

In this case, the City argues that it is entitled to summary judgment on three grounds: (1) National has failed to present an actual case or controversy ripe for judicial review under Article III, § 2, clause 1, U.S. Const.; (2) National failed to establish standing; and (3) National's claims are moot. In this Order, the Court will address the City's argument that National's claims are not ripe for judicial review. According to the City's argument, this Court should apply the Eleventh Circuit's rationale in *Digital Properties, Inc. v. City of Plantation*, 121 F.3d 586 (11th Cir. 1997) to the instant case because:

National, just like Digital, has "in its haste to preserve its perceived First Amendment rights, failed to present a mature claim for review." [*Digital*, 121 F.3d] at 590. National, like Digital, "did not pursue its claim with requisite diligence to show that a mature case or controversy exists." *Id.* at 590. National, like Digital, has not obtained final agency action. [Footnote omitted] National, like Digital, has shown no hardship from withholding judicial review at this time and requiring a final agency action. Thus, like Digital, National's claims are not ripe for judicial review.

In its Response, National argues that *Digital Properties* is distinguishable from the instant case, and that as a result it has the requisite standing to challenge the Zoning Ordinance in federal court. This Court disagrees.

Federal courts are courts of limited jurisdiction, pursuant to Article III, Section 2 of the United States Constitution in that the courts can only render decisions in actual cases and controversies. Thus, "[b]efore rendering a decision, . . . every federal court operates under an independent obligation to ensure it is presented with the kind of concrete controversy upon which its constitutional grant of authority is based. . . ." *Hallandale Prof'l Fire Fighters Local 2238 v. City of Hallandale*, 922 F.2d 756, 759 (11th Cir. 1991) (citing *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990)). The Eleventh Circuit has stated that "[t]he ripeness doctrine involves both jurisdictional limitations imposed by Article III's requirement of a case or controversy and prudential considerations arising from problems of prematurity and abstractness that may present insurmountable obstacles to the exercise of the court's jurisdiction, even though jurisdiction is technically present." *Johnson v. Sikes*, 730 F.2d 644, 648 (11th Cir. 1984). When determining whether a case is ripe, a court must specifically consider "(1) the fitness of the issues for judicial decision, and (2) the hardship to the parties of withholding court consideration." *Digital Prop., Inc. v. City of Plantation*, 121 F.3d 586, 589 (11th Cir. 1997). In cases challenging a governmental act, the issues are fit for judicial review if "a plaintiff . . . show[s] he has sustained, or is in immediate danger of sustaining, a direct injury as the result of that act." *Hallandale Prof'l Fire Fighters*, 922 F.2d at 760. While this requirement is interpreted broadly in a First Amendment context, it cannot be ignored. *Id.*

In *Digital*, the Eleventh Circuit addressed whether a First Amendment challenge to a city's zoning code was ripe for judicial consideration. In that case, the plaintiff Digital Properties, Inc., sought to construct an adult video and bookstore in a general business district that allowed for bookstores, newsstands, and theater and motion picture houses. *Digital*, 121 F.3d at 587. Digital's representatives attempted to file copies of the remodeling plans with the city. *Id.* at 588. At the zoning department, the representatives spoke with an assistant zoning technician who, upon hearing the nature of the business Digital sought to open, allegedly told the representatives that the City did not allow such use and refused to accept the plans. *Id.* The zoning technician further instructed the representatives to speak with the city's Director of Building and Zoning because "the scope of her job did not encompass accepting building plans over the counter." *Id.* at 588-89. Digital never contacted the Director, but instead, filed suit in district court five days later. *Id.* at 589. Upon the city's motion, the district court dismissed Digital's action, and Digital appealed. *Id.* On appeal, the Eleventh Circuit affirmed the lower court's ruling and held that the district court lacked subject matter jurisdiction over Digital's claim because it was not ripe, and further noted as follows:

Upon reaching the zoning department, . . . Digital waited only long enough to have one supervisory employee "confirm" its assumption. At a minimum, Digital had the obligation to obtain a conclusive response from someone with the knowledge and authority to speak for the City regarding the application of the zoning scheme to Digital's proposal. [The technician's] alleged statement to Digital's representatives that "the City of Plantation does not allow such use,"

simply is not sufficient to create a concrete controversy.

Id. at 590. Therefore, the Eleventh Circuit held that Digital's "action only constitutes a potential dispute, and this court has neither the power nor the inclination to resolve it." *Id.* 590-91.

Following the holding of the Eleventh Circuit in *Digital*, this Court finds that the instant case fails to present an issue that is ripe for judicial determination. National, like the plaintiff in *Digital*, not only failed to apprise itself of the administrative remedies available, but even failed to await the City's final denial of the permits. According to Juan Gonzalez, Zoning Administrator at the time National filed its permit applications, Cajina's rejection of the permit application did not constitute final action by the City. (Gonzalez Dep. at 4:4-20, 108:17-109:5.) Specifically, Gonzalez stated that the Building Official of the City of Miami is the person with the authority to deny issuance of a permit. (Gonzalez Dep. at 108:17-24.) Gonzalez indicated that Cajina's rejection of the permit applications is not the final rejection by the Zoning Department because the applicant could go to the zoning administrator for the zoning division in which the applicant is applying. (Gonzalez Dep. at 109:1-5.) In fact, according to Gonzalez, "[a] rejection by the zoning plan reviewer is given with the expectation that the property owner will correct any problems or deficiencies in the permit application and then return to the zoning plan reviewer for another review." (Gonzalez Decl. ¶ 5.)

Furthermore, Jose L. Ferras, the Building Official for the City of Miami, unequivocally stated at the Preliminary Injunction Hearing held on October 28, 2002, that rejection

by a department does not constitute denial of a permit because the Building Official is the only person who has the authority to grant or deny permits. *See supra* pp. 1285-86. Similarly, Cajina testified at the same hearing that as a zoning inspector he does not have the authority to grant or deny a permit because the Building Official is the only person within the City who has that authority. *See supra* pp. 1286-87. In fact, Lipman, one of the individuals who walked through two of the permits for National, stated in his deposition that "[i]t is my understanding that the zoning official works with the building official and is one of those stops along the way on permit approval in that process." (Lipman Dep. 47:11-14.) Lipman further stated that "[m]y understanding would be that any department could reject." (Lipman Dep. 46:11-12.) In response to that statement Lipman was asked "[i]s that an official denial of a building permit?" and he stated, "No. I would say an official denial is when we have something in writing that says its denied." (Lipman Dep. 46:13-17.) Therefore, this Court finds that the record is devoid of any evidence showing that National attempted to (1) discuss the zoning plan examiner's rejection of the permit applications with a supervisor in the Zoning Department or the Zoning Administrator, or (2) obtain a final decision by the Building Official of the City of Miami.

Moreover, besides seeking a final denial of the permit, National had other remedies available that could have led to a resolution of this case without costly and unnecessarily burdensome litigation. According to Gonzalez, National could have (1) revised the height and proposed location of the billboards, and/or (2) sought rezoning of the property. (Gonzalez Decl. ¶ 7.) In fact, National's seventh permit was granted in March 2003 because it sought to construct

the billboard in the C-2 zone where such structures are allowed. *See supra* note 4. The record before this Court shows that National did not avail itself of these remedies. Instead, Little himself testified before this Court that after receiving the rejections from zoning he immediately went to National's attorneys' office and left the permit applications there without taking the applications back to the City's Building Department. (Tr. of Prelim. Inj. Hr'g at 25:6-19, 8/28/02.) Moreover, Lipman stated that he had instructions from Little to simply walk the applications through the process, get any denials in writing and go home. (Lipman Dep. 46:2-6, 49:21-50:2.) Neither Lipman nor Chavez did what in their experience was normally done when an application was rejected by a department; namely attempt to work the problem out with the government officials. (Lipman Dep. 49:12-50:2; Chavez Dep. 43:18-44:18.)

This case represents National's rush to the courthouse to file a Complaint in a case where the City did not have the opportunity to make a final decision on the permit applications in question. As a result, the City is being dragged through expensive and contentious litigation on the oral conclusion of a zoning plans examiner that National's six permit applications did not comply with the Zoning Ordinance. Therefore, this Court finds that the instant case, as it relates to the rejection of the permit applications filed in December 2001, fails to present a ripe controversy because National failed to exhaust its remedies and, like the plaintiff in *Digital*, failed to obtain "a binding conclusive administrative decision."

Finally, National has also failed to produce evidence illustrating how its exhaustion of administrative remedies or its attempt to obtain a final agency determination

would force the parties to endure hardship. Thus, this Court finds that National's claims, originally filed in National II and premised on the City's denial of the six permit applications filed in December 2001, do not present an actual case or controversy that is currently ripe for judicial review.

IV. Conclusion

Accordingly, after a careful review of the record and the Court being otherwise fully advised, it is

ORDERED and ADJUDGED that the City's Motion for Summary Judgment be, and the same is hereby, GRANTED. It is further

ORDERED and ADJUDGED that National's Motion for Summary Judgment be, and the same is hereby, DENIED.

DONE and ORDERED in chambers at the James Lawrence King Federal Justice Building and United States Courthouse, Miami, Florida, this 26th day of September, 2003.

/s/ James Lawrence King
JAMES LAWRENCE KING
UNITED STATES
DISTRICT JUDGE
SOUTHERN DISTRICT
OF FLORIDA

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IN THE UNITED [sic] STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 03-15593

KENATIONAL [sic] ADVERTISING CO.,

Plaintiff-Appellant,

versus

CITY OF MIAMI,
MIAMI-DADE COUNTY, FLORIDA,

Defendant-Appellees.

On Appeal from the United States District Court
for the Southern District of Florida

ON PETITION FOR REHEARING AND
PETITION(S) FOR REHEARING EN BANC

(Filed May 17, 2005)

BEFORE: EDMONDSON, Chief Judge, WILSON, Circuit
Judge, and RESTANI*, Judge.

PER CURIAM:

The Petition(s) for Rehearing are DENIED and no member
of this panel nor other Judge in regular active service on
the Court having requested that the Court be polled on

* Honorable Jane A. Restani, Chief Judge, United States Court of
International Trade, sitting by designation.

App. 105

rehearing en banc (Rule 35, Federal Rules of Appellate Procedure; Eleventh Circuit Rule 35-5), the Petition(s) for Rehearing En Banc are DENIED.

ENTERED FOR THE COURT:

/s/ Charles R. Wilson
UNITED STATES CIRCUIT JUDGE

U.S. Const. amend. I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

U.S. Const. amend. XIV § 1

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

NATIONAL ADVERTISING
COMPANY, a Delaware
corporation,

Plaintiff,

vs.

CITY OF MIAMI, a Florida
municipality,

Defendant. _____ /

CONSOLIDATED
CASE NOS.

01-3039-CIV-KING and
02-20556-CIV-KING

DEFENDANT'S NOTICE OF FILING

Defendant City of Miami hereby gives notice of filing the attached document entered as Exhibit A by plaintiff National Advertising Company at the August 27, 2003 hearing on the parties' cross motions for summary judgment.

Respectfully submitted,

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Attorneys for the City of Miami
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By: /s/ Lori L. Piechura for
Parker D. Thomson
Fla. Bar No. 081225
Carol A. Licko
Fla. Bar No. 435872

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by U.S. Mail this 8th day of September 2003, to:

Thomas R. Julin, Esquire
Hunton & Williams
Mellon Financial Center, Suite 2500
1111 Brickell Avenue
Miami, Florida 33131

/s/ Lori L. Piechura
Lori L. Piechura

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)
CITY OF MIAMI)

I, WALTER J. FOEMAN, City Clerk of the City of Miami, Florida, and keeper of the records thereof, do hereby certify that the attached and foregoing pages, numbered 1 through 291, inclusive, constitute a true and correct copy of the Zoning Ordinance of the City of Miami Florida, as amended through July 27, 2000.

IN WITNESS WHEREOF, I hereunto set my hand
and impress the official seal of the City of Miami, Florida
this 17th day of **July, 2001**.

WALTER J. FOEMAN
City Clerk
Miami, Florida

By: /s/ [Illegible]
Deputy Clerk

(OFFICIAL SEAL)

ZONING ORDINANCE

CITY OF
MIAMI, FLORIDA

PUBLISHED BY ORDER OF THE CITY COMMISSION, 1991

A Part of the Code of Ordinances of the City of Miami

* * *

**Sec. 240. Erection or maintenance of unauthorized
signs prohibited.**

No sign shall be maintained, constructed, displayed,
illuminated, located, or dimensioned except in accordance
with the provisions of this ordinance.

Sec. 401. Schedule of district regulations.

CS Conservation.

Sign Regulations:

Only identification and directional signs by Class II Special Permit.

PR Parks, Recreation and Open Space.

* * *

Sign Regulations:

Only name of facility and directional signs by Class I Special Permit.

R-1 Single-Family Residential.

* * *

Sign Regulations:

In connection with each dwelling unit and all other uses:

1. Address signs, not to exceed one (1) for each dwelling unit or other use for each lot line adjacent to a street, or two (2) square feet in area, except as provided below.
2. Notice, directional and warning signs, not to exceed one (1) for each dwelling unit or other use for each lot line adjacent to a street, or two (2) square feet in area, provided that, where such signs are combined with address signs, maximum total area shall not exceed three (3) square feet.

Such signs, if freestanding, shall not exceed three (3) feet in height, be closer than ten (10) feet to any adjacent lot, or be closer than two (2) feet to any street line. Such

signs shall not be illuminated. (For signs related to home occupations, see section 906.5(d).)

In connection with child daycare centers: Not to exceed one (1) identification sign per establishment with a maximum area of two (2) square feet.

In connection with subdivisions, developments, neighborhoods or similar areas: Not to exceed one (1) permanent identification sign, or ten (10) square feet in area, per principal entrance. Such signs shall not be illuminated or internally illuminated.

In connection with advertising real estate upon which posted for sale, rent or lease: Not to exceed one (1) real estate sign, or four (4) square feet in area, for each lot line adjacent to a street. Such signs shall be nonilluminated.

In connection with active and continuing new construction work in progress: Except for PD development, construction signs shall not exceed one (1) construction sign, or six (6) square feet in area, for each lot line adjacent to a street. Such signs shall not be illuminated. PD-H (article 5) construction signs shall not exceed twenty (20) square feet in area, one (1) for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit as provided in section 925.3.8.

In connection with places of worship, primary and secondary schools: As for O.

Temporary political or civic campaign signs: Allowed subject to the exceptions, limitations and responsibilities of subsections 925.3.11, 925.3.12 and 925.3.13.

R-2 Two-Family Residential.

* * *

Sign Regulations:

Same as for R-1 Single-Family Residential.

R-3 Multifamily Medium-Density Residential.

* * *

Sign Regulations:

In connection with each dwelling unit and all other uses:

1. Address signs, not to exceed one (1) for each dwelling unit or other use for each lot line adjacent to a street, or two (2) square feet in area, except as provided below.
2. For each lot line adjacent to a street, one (1) wall sign not exceeding forty (40) square feet in area, or one (1) projecting sign with combined surface area not exceeding forty (40) square feet, and one (1) address and/or directional sign, not exceeding twenty (20) square feet. Such address and/or directional, notice or warning sign, if freestanding, shall not be closer than six (6) feet to any adjacent lot line or be closer than two (2) feet to any street line.
3. Notice, directional and warning signs, not to exceed one (1) for each dwelling unit or other use for each lot line adjacent to a street, or two (2) square feet in area, provided that, where such signs are combined with address signs, maximum total

area shall not exceed three (3) square feet. Address, notice, directional warning signs, if free-standing, shall not exceed three (3) feet in height, be closer than ten (10) feet to any adjacent lot, or be closer than two (2) feet to any street line.

Area of permitted wall signs may be increased two and one-half (2½) square feet for each foot above the first ten (10) feet of building height from grade at the bottom of the wall (averaged if sloping or irregular) to the bottom of the sign.

Child care centers: Same as permitted in R-1.

Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 925.3.10.

Construction: Not to exceed one (1) construction sign, or thirty (30) square feet in area for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit as provided in section 925.3.8.

Home occupations: See Section 906.5(d).

Real estate advertising for sale, rent or lease: Not to exceed one (1) real estate sign, or four (4) square feet in area, for each lot line adjacent to a street.

Subdivision, developments, neighborhoods or similar areas: Not to exceed one (1) permanent identification sign or ten (10) square feet in area, per principal entrance.

Temporary political and civic campaign signs: Allowed subject to the exceptions, limitations and responsibilities of subsections 925.3.11, 925.3.12 and 925.3.13

R-4 Multifamily High-Density Residential.

* * *

Sign Regulations:

Same as in R-3 district.

O Office.

* * *

Sign Regulations:

As for R-4, except as specified below:

Limitations on signs in relation to clinic uses therein shall apply to all office or clinic uses in this district. In addition, for each lot line adjacent to a street, address and/or directional sign, not exceeding twenty (20) square feet, such address and/or directional, notice or warning sign, if free-standing, shall not be closer than six (6) feet to any adjacent lot or closer than two (2) feet to any street line.

Area of permitted wall signs may be increased two and one-half (2½) square feet for each foot above the first ten (10) feet of building height from grade at the bottom of the wall (averaged if sloping or irregular) to the bottom of the sign.

Community or neighborhood bulletin boards or kiosks shall be permissible only by Class I Special Permit, as provided at section 925.3.10.

Development signs, except where combined with construction signs, shall be permissible only by Class I Special Permit as provided at section 925.3.8.

Signs for hotel uses shall be subject to Class II Special Permit review. The Class II Special Permit shall give due consideration to the orientation of said signs to ensure that they are oriented away from adjacent residential uses so as to minimize the potential adverse effects resulting from lighting spillover. Signage for hotels shall conform to the following guidelines:

1. Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide toward entrances, exits, or parking areas, but shall not exceed five (5) square feet in surface area. Such signs shall be permanent, weather resisting fixtures well anchored to the ground so as not to be readily removable and shall stand alone, not be attached to other fixtures or plantings.
2. Ground or monument signs, excluding pole signs, limited to one (1) sign structure with not to exceed two (2) sign surfaces neither of which shall exceed forty (40) square feet in sign area. One (1) such sign shall be allowed for each one hundred (100) feet of frontage. Such signs shall consist of a solid and opaque surface which shall contain all lettering and/or graphic symbols, none of which shall be internally illuminated. Maximum height limitation shall be ten (10) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that upon finding that there are unusual or undulating site conditions the zoning administrator may increase the measurement of the crown by up to five (5) feet to accommodate these conditions.

3. Wall signs, limited to one (1) square foot of sign area for each lineal foot of wall fronting on a street. Not more than three (3) such signs shall be permitted per hotel. No signs will be permitted on frontages which face residentially zoned property within a radius of one thousand (1,000) feet.

G/I Government and Institutional.

* * *

Sign Regulations:

Onsite signs only shall be permitted in these districts, subject to Class II Special Permit procedures and review as set forth in Articles 13 and 15 of this zoning ordinance; as well as the following requirements and limitations.

Except as otherwise provided, such signs may be illuminated but shall not be animated or flashing. At retail or service establishments, in addition to identifying the principal business, commodity or service, such signs may devote not more than half of their actual aggregate area to the advertising of subsidiary products sold or services rendered on the premises.

1. Construction signs; not to exceed one (1) construction sign or thirty (30) square feet in area, for each lot line adjacent to a street.
2. Development signs, except where combined with construction signs, shall be permissible subject to the provisions as provided at section 925.3.8.
3. Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas, but shall not exceed five (5) square feet in surface area.

4. Ground or freestanding signs, limited to one (1) sign structure with not to exceed two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each fifty (50) feet of street frontage. Permitted sign area shall be cumulative, but no sign surface shall exceed one hundred (100) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the zoning administrator may increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions upon finding that such conditions exist.
5. Projecting signs (other than marquee signs) shall be limited to one (1) sign structure with not to exceed two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area.
6. Real estate signs, limited to one (1) per street frontage and not to exceed half the area permissible for the same type of permanent sign on the premises.
7. Temporary civic and political campaign signs are allowed, subject to the exceptions, limitations and responsibilities of subsections 925.3.11, 925.3.12 and 925.3.13 respectively.
8. Wall signs, limited to two-and-one-half ($2\frac{1}{2}$) square feet of sign areas for each lineal foot of wall fronting on a street if any portion of such sign is below fifteen (15) feet above grade. For each foot that the lowest portion of such sign exceeds fifteen (15) feet, permitted sign area shall be increased one (1) percent. Not more than three

(3) such signs shall be permitted for each frontage on which area calculations are based, but one of these may be mounted on a side wall.

9. Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

C-I Restricted Commercial.

* * *

Sign Regulations:

Onsite signs only shall be permitted in these districts, subject to the following requirements and limitations. Except as otherwise provided, such signs may be illuminated but shall not be animated or flashing. At retail or service establishments, in addition to identifying the principal business, commodity or service, such signs may devote not more than half of their actual aggregate to the advertising of subsidiary products sold or services rendered on the premises.

1. Community or neighborhood bulletin boards or kiosks shall be permissible as provided at section 925.3.10.
2. Construction signs; not be [to] exceed one (1) construction sign or thirty (30) square feet in area, for each lot line adjacent to a street.
3. Development signs, except where combined with construction signs, shall be permissible only by Class I Special Permit as provided at section 925.3.8.

4. Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas, but shall not exceed five (5) square feet in surface area.
5. Ground or freestanding signs, limited to one (1) sign structure with not to exceed two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each fifty (50) feet of street frontage. Permitted sign area shall be cumulative, but no sign surface shall exceed one hundred (100) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the zoning administrator at his discretion may increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.
6. Marquee signs, limited to one (1) per establishment and three (3) square feet in area.
7. Projecting signs (other than marquee signs) shall be limited to one (1) sign structure with not to exceed two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area; provided, however, that such permissible sign area shall be increased in C-1 districts to eighty (80) square feet where maximum projection from the face of the building is two (2) feet or less, sixty (60) square feet where projection is more than two (2) and less than three (3) feet, and forty (40) square feet where projection is at least three (3), but not more than four (4) feet.

8. Real estate signs, limited to one (1) per street frontage and not to exceed half the area permissible for the same type of permanent sign on the premises.
9. Temporary civic and political campaign signs are allowed, subject to the exceptions, limitations and responsibilities of subsections 925.3.11, 925.3.12 and 925.3.13 respectively.
10. Wall signs, limited to two and one-half ($2\frac{1}{2}$) square feet of sign area for each lineal foot of wall fronting on a street if any portion of such sign is below fifteen (15) feet above grade. For each foot that the lowest portion of such sign exceeds fifteen (15) feet, permitted sign area shall be increased one (1) percent. Not more than three (3) such signs shall be permitted for each frontage on which area calculations are based, but one (1) of these may be mounted on a side wall.
11. Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

C-2 Liberal Commercial.

* * *

Sign Regulations:

Signs, illuminated or nonilluminated, flashing or nonflashing, or animated (except as otherwise provided) are permitted as accessory uses and, in the case of offsite signs (including those in connection with the outdoor advertising business), as principal uses, subject to the provisions of sections 925 and 926 and the following

requirements and limitations. Onsite signs shall be limited as to subject matter as for C-1.

Signs shall be permitted as for C-1 except:

1. Wall signs, onsite, limited to three and one-half ($3\frac{1}{2}$) square feet of sign area for each lineal foot of wall fronting on a street if any portion of such sign is below fifteen (15) feet above grade. For each foot that the lowest portion of such sign exceeds twenty-five (25) feet, permitted sign area shall be increased one (1) percent up to a maximum height of fifty (50) feet above grade. Not to exceed three (3) such signs shall be permitted for each frontage on which area calculations are based, but one (1) of these may be mounted on a side wall.
2. Window signs, with same limitations as C-1, except they shall be onsite signs and shall be nonilluminated.
3. Projecting signs, with same limitations as C-1, except they shall be limited to onsite signs.
4. Marquee signs, with same limitations as C-1, except they shall be onsite signs.
5. Ground or freestanding signs, onsite, shall be limited to one (1) sign and forty (40) square feet of sign area (for each face) for each business, or for each fifty (50) feet of street frontage, whichever shall yield the largest area. Permitted sign area may be used in less than the maximum permitted number of such signs, but no sign shall exceed two hundred (200) square feet in area for each face. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways,

provided, however, that the zoning administrator, at his discretion, may increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

6. Directional signs, with same limitations as C-1, except they shall not exceed ten (10) square feet in surface area.

And in addition:

1. Wall signs, offsite, limited in location to side walls of buildings, limited in area as for wall signs, onsite, above, and to be included as part of total permitted wall sign area rather than in addition to onsite wall signs, and limited to one (1) sign on any premises. No offsite wall sign shall be permitted on the same wall with an onsite wall sign. (See sections 926.10 through 926.15 also.)
2. Ground or freestanding signs, offsite, shall be limited to two (2) for any lot, whether or not occupied by a building. The area shall not exceed seven hundred fifty (750) square feet for each surface, including embellishments. The total height shall not exceed thirty (30) feet, except as set forth in section 926.15.2, including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways; provided, however, that the zoning administrator, at his discretion, may increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions. (See sections 926.3, 926.10 through 926.15 also.)

3. Signs, onsite, above a height of fifty (50) feet above grade, shall be subject to the requirements and limitations of section 926.16.

CBD Central Business District Commercial.

* * *

Sign Regulations:

As permitted below:

Onsite signs only shall be permitted in these districts, subject to the following requirements and limitations. Except as otherwise provided, such signs may be illuminated but shall not be animated or flashing. At retail or service establishments, in addition to identifying the principal business, commodity or service, such signs may devote not more than half of their actual aggregate to the advertising of subsidiary products sold or services rendered on the premises.

1. Community or neighborhood bulletin boards or kiosks shall be permissible as provided at section 925.3.10.
2. Construction signs; not be exceed one (1) construction sign or thirty (30) square feet in area, for each lot line adjacent to a street.
3. Development signs except where combined with construction signs, shall be permissible only by Class I Special Permit as provided at section 925.3.8.
4. Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas, but shall not exceed five (5) square feet in surface area.

5. Ground or freestanding signs, limited to one (1) sign structure with not to exceed two (2) sign surfaces per parallel street frontage, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each fifty (50) feet of street frontage. Permitted sign area shall be cumulative, but no sign surface shall exceed eighty (80) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the zoning administrator at his/her discretion may increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.
6. Marquee, awning and canopy signs, limited to one (1) per establishment and three (3) square feet in area.
7. Projecting signs (other than marquee signs) shall be limited to one (1) sign structure with not to exceed two (2) sign surfaces, neither of which shall exceed twenty-five (25) square feet in sign area.
8. Real estate signs, limited to one (1) per street frontage and not to exceed half the area permissible for the same type of permanent sign on the premises.
9. Temporary civic and political campaign signs are allowed, subject to the exceptions, limitations and responsibilities of subsections 925.3.11, 925.3.12 and 925.3.13 respectively.
10. Wall signs, limited to two (2) square feet of sign area for each lineal foot of wall fronting on a street if any portion of such sign is below fifteen (15) feet above grade. For each foot that the lowest portion

of such sign exceeds fifteen (15) feet, permitted sign area shall be increased one (1) percent. Not more than three (3) such signs shall be permitted for each frontage on which area calculations are based, but one (1) of these may be mounted on a side wall.

I Industrial.

* * *

Sign Regulations:

Same as for C-2.

RT Fixed-Guideway Rapid Transit System Development District.

DIVISION 6. COMMERCIAL SIGNS ON RAPID TRANSIT SYSTEM RIGHT-OF-WAY

Sec. 33-121.20. Definitions

(a) *Rapid transit system right-of-way* shall mean an official map designating outside boundaries for the fixed-guideway rapid transit system for Dade County, Florida, which may from time to time be amended. The rapid transit system right-of-way map shall be so designated and recorded and on file in the public records of Dade County, Florida.

(b) *Applicable regulations* shall mean any pertinent zoning, building or other regulations in effect in the incorporated or unincorporated areas of Dade County or the State of Florida.

(c) *Protected areas* shall mean all property in Dade County within three hundred (300) feet of the right-of-way of any rapid transit system right-of-way.

(d) *Sign* shall mean any display of characters, letters, illustrations or any ornamentation designed or used as an advertisement, announcement or to indicate direction.

(e) *Erect* shall mean to construct, build, rebuild (if more than fifty (50) percent of the structural members involved), relocate, raise, assemble, place, affix, attach, paint, draw, or in any other manner bring into being or establish.

(f) *Temporary sign* shall mean signs to be erected on a temporary basis, such as signs advertising the sale or rental of the premises on which located; signs advertising a subdivision of property; signs advertising construction actually being done on premises on which the sign is located; signs advertising future construction to be done on the premises on which located and special events, such as public meetings, sporting events, political campaigns or events of a similar nature.

(g) *Point-of-sale* shall mean any sign advertising or designating the use, occupant of the premises, or merchandise or products sold on the premises.

(h) *Outdoor advertising sign* shall mean any sign which is used for any purpose other than that of advertising to the public the legal or exact firm name or type of business conducted on the premises, or of products or merchandise sold on the premises; or which is designed and displayed to offer for sale or rent the premises on which displayed, or the subdivision of such premises, or present or future construction or development of such premises, or

advertising special events, and which shall constitute an outdoor advertising sign. Outdoor advertising sign shall not include a sign which is erected inside a building for the purpose of serving the persons within the building.

Sec. 33-121.21. Applicability.

This division shall apply to both the incorporated and unincorporated area. Any municipality may establish and enforce equivalent or more restrictive regulations, as such municipality may deem necessary.

Sec. 33-121.22. Signs prohibited in protected areas.

It shall be unlawful hereafter for any person, firm or corporation, or any other legal entity, to erect, permit or maintain any sign in protected areas, except as provided for hereinafter.

Sec. 33-121.23. Exceptions to sign prohibition.

Erection of the following signs shall be permitted in protected areas, subject to the conditions and limitations listed herein and further subject to other applicable regulations where such regulations are more restrictive or more definitive than the provisions of this division and are not inconsistent therewith:

- (a) Temporary signs which are located and oriented to serve streets other than a rapid transit system, and are located at least one hundred (100) feet from the rapid transit system right-of-way, except that such signs may serve and be oriented to a rapid transit system if the property concerned

abuts the rapid transit system right-of-way and is not served by a parallel rapid transit system service road or is abutting the rapid transit system right-of-way and has direct, permanent legal access to the rapid transit system. In no event shall any temporary sign be larger than one hundred twenty (120) square feet.

- (b) Point-of-sale signs which are located on and oriented to the frontage on the street which provides actual and direct access to the front or principal entrance of the place of business; however, on corner lots a second detached point-of-sale sign will be permitted provided that the same is not larger than forty (40) square feet, is located on and oriented to the street frontage of the street other than the one serving the principal entrance of the place of business. "Oriented," in connection with point-of-sale signs, shall mean, in the case of detached signs, placed at a ninety-degree angle to the street being served; in the case of roof signs, parallel to and fronting such street and within the front twenty-five (25) percent of the building concerned; and in the case of pylon signs, within the front twenty (20) percent of the building concerned. Wall signs within two hundred (200) feet of a rapid transit system shall be confined to the wall of the building containing the principal entrance, except that a wall sign may be placed on one other wall of such building and shall be limited to ten (10) percent of such other wall area. In no event shall any detached point-of-sale roof sign be erected which is greater in height above the roof than ten (10) feet.
- (c) Outdoor advertising signs shall not be erected for the purpose of serving any rapid transit system, and outdoor advertising signs in protected areas shall be erected and oriented to serve any streets

other than rapid transit systems, subject to the following conditions:

- (1) That in no event shall any outdoor advertising sign be erected or placed closer than three hundred (300) feet to the right-of-way lines of any rapid transit system.
- (2) That outdoor advertising signs shall be erected and placed only in business and commercial (not including industrial) zoning districts which permit outdoor advertising under the applicable zoning regulations of the county or municipality having jurisdiction.
- (3) That no outdoor advertising sign shall be erected that is larger than fifteen (15) feet in width and fifty (50) feet in length, whether single or multiple boards.
- (4) That no detached outdoor advertising sign shall be erected which is more than twenty-five (25) feet above the average existing grade of the site on which such sign is erected or the flood criteria elevation (if property is filled to such elevation), whichever is the greater; nor shall an outdoor advertising roof sign be erected which is more than twenty (20) feet above the roof.
- (5) That no advertising signs shall be erected or placed within three hundred (300) feet of another outdoor advertising sign, such distance to be measured in all directions from the outermost edges of such sign.
- (6) That no outdoor advertising sign shall be erected or placed within one hundred (100) feet of any church, school, cemetery, public park, public reservation, public playground, state or national forest.

- (7) That outdoor advertising signs shall be erected and placed at right angles to the street which they are serving and shall be located within the front seventy (70) feet of the lot or tract on which erected.
- (8) That no outdoor advertising signs shall be erected or placed on a street dead-ended by the rapid transit system, between the rapid transit system and the first street running parallel to the rapid transit system and on the same side of the dead-end street, even though such distance may be greater than three hundred (300) feet.
- (9) That outdoor advertising signs shall be erected and placed only on property conforming in size and frontage to the requirements of the zoning district in which it is located, and detached outdoor advertising signs shall not be erected on property already containing a use or structure.
- (10) That detached outdoor advertising sign structures shall be of the so-called cantilever-type construction (double-faced sign, both faces of the same size, secured back to back on vertical supports with no supporting bracing).
- (d) Any sign which fails to conform with the provisions of this division but is not visible from any rapid transit system due to an intervening obstruction.

Sec. 33-121.24. Non conforming signs.

- (a) Signs which have been erected prior to the effective date of this division may continue to be maintained until

January 1, 1984. Thereafter, unless such signs conform to the provisions of this division, they shall be removed. If a nonconforming spacing situation can be eliminated by the removal of one (1) sign, the sign which has been erected for the longest period of time shall have priority.

(b) [If] any sign [be] legally erected, permitted or maintained subsequent to the effective date of this division, which is not in violation of this division but upon the opening for public use of a rapid transit system or applicable portion thereof becomes nonconforming, the same may continue to be maintained for a period of three (3) years from the day of such opening, provided on or before the expiration of the three-year period, the nonconforming sign must be removed; provided any sign which is exempt from the provisions of this division pursuant to (d) of section 33-121.23 hereof, but subsequently becomes nonconforming due to the elimination of the obstruction preventing its visibility from a rapid transit system, must be removed within three (3) years from the time of the elimination of such obstruction; further provided, after the effective date of this amendment any sign erected, permitted or maintained after a future rapid transit system right-of-way has been designated by the recording of a rapid transit system right-of-way map in the public records of Dade County, Florida, which becomes nonconforming due to the completion of such rapid transit system shall be removed within thirty (30) days after such rapid transit system or applicable portion thereof is opened for public use.

Sec. 507. Signs visible from outside PUD in residential districts.

A maximum of two (2) identification signs may be erected within such districts with total combined maximum

surface area of fifty (50) square feet, at each principal entrance. In addition, during the process of construction and initial sale or rental within such development, temporary announcement signs may be allowed by Class I-Special Permit only, for periods not exceeding one (1) year, and renewable for one-year terms for not to exceed two (2) additional years.

Such temporary signs shall not exceed two (2) with combined maximum surface area of forty (40) square feet for each principal entrance. Such signs shall be located at least ten (10) feet in from any property line, and oriented for minimum adverse effects on adjoining or facing residential property. Location shall be further governed by requirements for vision clearance at intersections as set out at section 908.11.

507.1. Signs limitations at PD mixed-use districts.
Limitations on signs shall be as for C-1 Restricted Commercial Districts except as provided below:

1. In addition to signs permitted or conditional under C-1 regulations, one (1) sign structure, not exceeding thirty-five (35) feet in height, and having not more than two (2) sign surfaces, may be erected along each principal street frontage from which there is a major entrance, to identify the development as a whole. Such signs may indicate the establishments, activities, and facilities within the development, but shall not include other advertising. Each such sign surface may have a minimum area of forty (40) square feet, plus one (1) square foot for each two and one-half ($2\frac{1}{2}$) feet by which the frontage involved exceeds

one hundred (100) feet, up to a maximum of one hundred (100) square feet per surface.

(Ord. No. 10771, § 1, 7-26-90; Ord. No. 10863, § 1, 3-28-91)

Sec. 601.3. Class II Special Permit.

601.3.2. Considerations in making Class II Special Permit determinations.

The purpose of the Class II Special Permit shall be to ensure conformity of the application with the expressed intent of this district, with the general considerations listed in section 1305, and with the special considerations listed below.

1. All signs, awnings and storefront renovations shall be of a style and/or size which is consistent with the existing or adjacent building styles and/or storefront designs.
2. Wherever feasible, lot frontage along Martin Luther King Boulevard and N.W. 7th Avenue should be developed in accord with design standards and guidelines in the "City of Miami Primary Pedestrian Pathway Design Guides and Standards."

(Ord. No. 10771, § 1, 7-26-90; Ord. No. 10863, § 1, 3-28-91)

Sec. 602. SD-2 Coconut Grove Central Commercial District.

Sec. 602.11. Limitations on signs.

No signs intended to be read from off the premises shall be erected except as provided below:

602.11.1. *General limitations.*

602.11.1.1. *Prohibited signs.* Billboards, poster panels, ground or freestanding signs and other outdoor advertising signs shall be prohibited in this district. Other offsite signs shall be prohibited except for temporary civic and political campaign signs or except when signs are posted on community or neighborhood bulletin boards or kiosks, in accordance with limitations and regulations relating thereto at section 925.310 and those applied in special permit proceedings on particular community or neighborhood bulletin boards or kiosks.

602.11.1.2. *Signs more than fifteen feet above grade, limitations on number, area, subject matter.* Signs erected with their lowest portions more than fifteen (15) feet above grade shall be limited to those identifying the building and the nature of the establishments it contains. Only one (1) such sign, not exceeding fifty (50) square feet in area, for every one hundred fifty (150) feet of length of building wall shall be permitted for each face of the building oriented toward the street.

602.11.1.3. *Signs fifteen feet or less above grade, limitations on number and area.* Wall signs (not including signs in glassed areas of windows or doors) and projecting signs erected with their highest portion fifteen (15) feet or less above grade shall be limited in total area to twenty (20) square feet, except as otherwise specifically provided herein. Signs in the glassed areas of windows and doors shall not exceed twenty (20) percent of the glassed area of the window or door involved. One (1) ground sign, limited to ten (10) square feet in area, may be erected for buildings on lots where the street yard exceeds twenty (20) feet in depth.

602.11.2. Detailed limitations, wall signs, projecting signs, marquee signs, window signs.

Within the twenty (20) square feet maximum allowable at or below fifteen (15) feet above grade, the following limitations shall apply to number and area of signs. Not more than one (1) wall sign may be erected per establishment, and maximum area of any such sign shall be twenty (20) square feet. Not more than one (1) projecting sign, other than a marquee sign, shall be erected, with not to exceed two (2) sign surfaces, neither of which shall exceed ten (10) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building. Marquee signs shall be limited to one (1) per establishment and three (3) square feet in sign area.

602.11.3. Real estate signs, construction signs, development signs, number and area.

Real estate, construction or development signs, individually or in combination, shall be limited to one (1) per street frontage, not exceeding ten (10) square feet in area, and erected with the highest portion fifteen (15) feet or less above grade. Real estate signs which are not part of construction or development signs shall not require a special permit.

602.11.4. Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

Notwithstanding the provisions set forth in section 602.11.1.1, where there are commercial, service or retail uses in a structure which may not be seen directly from the public right-of-way, but have direct access from a courtyard or open space which abuts a primary pedestrian pathway, a free-standing directional sign containing the names of all the establishments concealed from direct view may be erected which may be combined with a location map of the complex. Not more than one (1) such sign, not exceeding twenty (20) square feet in area, shall be erected per entrance, exit, or parking area.

602.11.5. Community or neighborhood bulletin boards or kiosks, area and location.

Area and location of community or neighborhood bulletin boards or kiosks shall be determined at the time of special permit proceeding.

602.11.6. Additional wall signs for theaters, museums, noncommercial art galleries.

In addition to signs permitted above, theaters, museums, noncommercial art galleries and the like may have wall sign areas for display of announcements concerning coming or current exhibits or performances. Area of such display surfaces shall not exceed two (2) square feet for each lineal foot of building wall frontage on a street, with maximum permitted area two hundred (200) square feet.

602.11.7. Special permit requirements, specified types of signs.

Except where such signs are approved in connection with general special permit actions concerning development on the premises, a Class II Special Permit shall be required for the following signs: Permanent window or door signs,

projecting signs, marquee signs, development signs, construction signs, directional signs, community or neighborhood bulletin boards or kiosks, and wall sign display areas for theaters, museums, noncommercial art galleries and the like.

(Ord. No. 10771, § 1, 7-26-90; Ord. No. 10863, § 1, 3-28-91; Ord. No. 11569, § 2, 10-28-97)

Sec. 604. SD-4 Waterfront Industrial District.

Sec. 604.11. Limitations on signs.

Sign limitations shall be as provided for C-1 districts.

(Ord. No. 10863, § 1, 3-28-91)

Sec. 605. SD-5 Brickell Avenue Area Office-Residential District.

Sec. 605.11. Limitations on signs.

Sign limitations shall be as provided for C-1 districts.

(Ord. No. 10863, § 1, 3-28-91)

Sec. 606. SD-6, SD-6.1 Central Commercial Residential Districts.

Sec. 606.11. Limitations on signs.

Sign limitations shall be as provided for the C-1 district with the following exceptions and modifications:

1. Signs, flashing, animated, revolving, whirling, banners, pennants or streamers shall be permitted.

2. Offsite signs shall be permitted, subject to the following conditions: Maximum one (1) per street frontage, maximum four hundred (400) square feet of surface area per sign and all such offsite signs shall be designed to exhibit continuously changing displays of figures, words or graphics through the use of lights, projected images or luminous character generators. Temporary civic and political campaign signs limited to four hundred (400) square feet of surface area are allowed. Offsite signs above a height of fifty (50) feet above grade shall be subject to the provisions of section 926.16, as appropriate and where those provisions are more limiting.
3. Projecting signs (other than marquee signs) shall be limited to one hundred twenty (120) square feet for each sign surface.
4. Ground or freestanding signs shall be limited to directional signs and temporary civic and political campaign signs.
5. Kiosk advertising shall be limited to the announcement of events, exhibits, entertainment, and cultural events.

(Ord. No. 10863, § 1, 3-28-91)

Sec. 607. SD-7 Central Brickell Rapid Transit Commercial-Residential District.

Sec. 607.11. Limitations on signs.

Sign limitations shall be as provided in section 602.11, recognizing the size limitations thereof, provided further

that onsite signs above a height of fifty (50) feet above grade shall be subject to the provisions of section 926.16.

(Ord. No. 10863, § 1, 3-28-91)

Sec. 608. SD-8 Design Plaza Commercial-Residential District.

Sec. 608.11. Limitations on signs.

Limitations on signs shall be as for C-1 districts.

(Ord. No. 10863, § 1, 3-28-91)

Sec. 609. SD-9 Biscayne Boulevard North Overlay District.

Sec. 609.8. Limitations on signs.

Sign limitations shall be as for C-1 districts, except for properties which have direct frontage along Biscayne Boulevard or which have frontage within one hundred (100) feet of Biscayne Boulevard, in which case sign limitations shall be as provided below:

609.8.1. General limitations.

609.8.1.1. Signs more than fifteen (15) feet above grade.

- a) Signs more than fifteen (15) feet above grade, but less than fifty (50) feet above grade. Signs erected with their lowest portions more than fifteen (15) feet above grade shall be limited to those identifying the building and the nature of the establishments it contains. Except as provided below, only one (1) such sign, not exceeding fifty (50) square feet in

area for every one hundred fifty (150) feet of length of building wall oriented toward the street, shall be permitted. In addition to the Class II Special Permit required for such signs, referral to the urban development review board shall be mandatory for signs fifteen (15) feet above grade that exceed the allowable fifty (50) square feet of sign area. Area of such signs shall in no case exceed 1.5 square feet for each lineal foot of building wall frontage on a street.

- b) Signs more than fifty (50) feet above grade. Signs erected with their lowest portions more than fifty (50) feet above grade shall be regulated generally by the limitations of section 926.16 of this zoning ordinance (including the criteria stated therein) except for the limitations on the sizes of the letters which shall be as follows:
 - 1. Letters of signs on buildings with a height of one hundred (100) feet or more shall be permitted up to a height of eight (8) feet; and
 - 2. Letters of signs on buildings with a height of one hundred fifty (150) feet or more shall be permitted up to a height of ten (10) feet.

In addition to the Class II Special Permit required for such signs, referral to the urban development review board shall be mandatory.

609.8.1.2. Signs fifteen (15) feet or less above grade; limitations on number and area. Wall signs (not including signs in glassed areas of windows or doors) and projecting signs erected with their highest portion fifteen (15) feet or less above grade shall be

limited in total area to twenty (20) square feet, except as otherwise specifically provided herein (see section 609.8.2). Signs in glassed areas of windows and doors shall not exceed twenty (20) percent of the glassed area of the window or door involved.

609.8.1.3. Prohibited signs. Billboards, poster panels, balloon signs, ground or freestanding signs and other outdoor advertising signs shall be prohibited in this district. Other offsite signs shall be prohibited except for temporary civic and political campaign signs or except when signs are posted on community or neighborhood bulletin boards or kiosks, in accordance with limitations and regulations relating thereto at section 925.3.10 and those in special permits proceedings on particular community or neighborhood bulletin boards or kiosks.

609.8.2. Detailed limitations, wall signs, projecting signs, window signs.

609.8.2.1. Within twenty (20) square feet maximum allowable, at or below fifteen (15) feet above grade, the following limitations shall apply to number and area of signs. Not more than one (1) wall sign may be erected per establishment unless the establishment has frontage along two (2) streets, in which case two (2) wall signs shall be permitted, one (1) on each wall fronting a street, and the maximum area of any such sign shall be twenty (20) square feet. Not more than one (1) projecting sign, other than a marquee sign, shall be erected, with not to exceed two (2) surfaces, neither of which shall exceed twenty-five (25) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building. Marquee signs shall be limited to one (1) per establishment and three (3) square feet in sign area.

609.8.3. Directional signs, number and area.

Directional signs, which may be combined with address signs, but shall bear no advertising manner [matter], may be erected to guide entrances, exits or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit or parking area.

(Ord. No. 11022, § 1, 11-12-92; Ord. No. 11258, § 1, 5-1-95; Ord. No. 11315, § 1, 9-28-95; Ord. No. 11862, § 2, 11-19-99)

Sec. 611. SD-11 Coconut Grove Rapid Transit District.

Sec. 611.11. Limitations on signs.

Sign limitations shall be as for the C-1 district.

(Ord. No. 10863, § 1, 3-28-91)

Sec. 613. SD-13 S.W. 27th Avenue Gateway District.

Sec. 613.11. Limitations on signs.

Limitations on signs shall be as required for SD-2 district.

(Ord. No. 10771, § 1, 7-26-90; Ord. No. 10863, § 1, 3-28-91)

Sec. 614.3. Commercial-residential district (SD-14).

614.3.8. Limitations on signs.

No sign to be read from off the premises shall be erected except as provided below:

614.3.8.1. *General limitations.*

614.3.8.1.1. *Prohibited signs.* Billboards, poster panels, ground or freestanding signs and other outdoor advertising signs shall be prohibited in this district. Other offsite signs shall be prohibited except for temporary civic and political campaign signs or except when signs are posted on community or neighborhood bulletin boards or kiosks, in accordance with limitations and regulations relating thereto at section 925.3.10 and those applied in special permit proceedings on particular community or neighborhood bulletin boards or kiosks.

614.3.8.1.2. *Signs more than fifteen feet above grade, limitations on number, area, subject matter.* Signs erected with their lowest portions more than fifteen (15) feet above grade shall be limited to those identifying the building and the nature of the establishments it contains. The size of signs shall not be greater than one and one quarter (1.25) square feet per linear foot of wall frontage or a maximum of sixty (60) square feet for every one hundred and fifty (150) feet of length of building wall for each face of the building oriented toward the street. The maximum length of signs shall not exceed sixty (60) percent of the linear street frontage occupied by a licensed establishment. The size of letters shall not exceed eighteen (18) inches in height.

614.3.8.1.3. *Signs fifteen feet or less above grade, limitations on number and area.* Wall signs (not including signs in glassed areas of windows or doors) and projecting signs erected with their highest portion fifteen (15) feet or less above grade shall be the same as section

[sic]. Signs in the glassed areas of windows and doors shall not exceed twenty (20) percent of the glassed area of the window or door involved. One (1) ground sign, limited to ten (10) square feet in area, may be erected for buildings on lots where the street yard exceeds twenty (20) feet in depth.

614.3.8.2. *Detailed limitations, wall signs, projecting signs, marquee signs, window signs.* Within the twenty (20) square feet maximum allowable at or below fifteen (15) feet above grade, the following limitations shall apply to number and area of signs. Not more than one (1) wall sign may be erected per establishment and maximum area of any such sign shall be twenty (20) square feet. Not more than one (1) projecting sign, other than a marquee sign, shall be erected, with not to exceed two (2) sign surfaces, neither of which shall exceed ten (10) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building. Marquee signs shall be limited to one (1) per establishment and three (3) square feet in sign area.

614.3.8.3. *Real estate signs, construction signs, development signs, number and area.* Real estate, construction or development signs, individually or in combination, shall be limited to one (1) per street frontage, not exceeding ten (10) square feet in area, and erected with the highest portion fifteen (15) feet or less above grade. Real estate signs which are not part of construction or development signs shall not require a special permit.

614.3.8.4. *Directional signs, number and area.* Directional signs, which may be combined

with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

614.3.8.5. *Community or neighborhood bulletin boards or kiosks, area and location.* Area and location of community or neighborhood bulletin boards or kiosks shall be determined at the time of special permit processing.

614.3.8.6. *Additional wall signs for theaters, museums, noncommercial art galleries.* In addition to signs permitted above, theaters, museums, noncommercial art galleries and the like may have wall sign areas for display of announcements concerning coming or current exhibits or performances. Area of such display surfaces shall not exceed two (2) square feet for each lineal foot of building wall frontage on a street, with maximum permitted area two hundred (200) square feet. For additional information on signs, see "Latin Quarter Design Guidelines and Standards."

614.3.8.7. *Special permit requirements, specified types of signs.* Except where such signs are approved in connection with general special permit actions concerning development on the premises, a Class II permit shall be required for the following signs: Permanent window or door signs, projecting signs, marquee signs, development signs, construction signs, directional signs, community or neighborhood bulletin boards or kiosks, and wall sign display areas for theaters, museums, noncommercial art galleries and the like.

614.3.8.8. Ground or freestanding signs to be allowed for gasoline stations only by Special Exception. Such signs shall be limited to one (1) sign structure with not to exceed two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area, for each establishment. Maximum height to top of sign not to exceed twenty-six (26) feet. Design of sign shall comply with "The Latin Quarter Design Guides and Standards."

(Ord. No. 10771, § 1, 7-26-90; Ord. No. 10863, § 1, 3-28-91; Ord. No. 10977, § 1, 4-30-92; Ord. No. 11011, § 1, 10-22-92; Ord. No. 11054, § 1, 3-25-93; Ord. No. 11056, § 1, 3-25-93; Ord. No. 11106, § 3, 11-23-93; Ord. No. 11178, § 1, 9-22-94; Ord. No. 11628, § 2, 3-24-98)

Sec. 615. SD-15 River Quadrant Mixed-Use District.

Sec. 615.8. Sign regulations.

Onsite signs only shall be permitted in this district, subject to the following requirements and limitations. Except as otherwise provided, such signs may be illuminated but shall not be animated or flashing. At retail or service establishments, in addition to identifying the principal business, commodity or service, such signs shall not devote more than half of their actual aggregate to the advertising of subsidiary products sold or services rendered on the premises.

Construction signs; not to exceed one (1) construction sign or thirty (30) square feet in area, for each lot line adjacent to a street.

Development signs, except where combined with construction signs, shall be permissible only by Class I Special Permit as provided in section 925.3.8.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits or parking areas, but shall not exceed five (5) square feet in surface area.

Ground or monument signs, limited to one (1) sign structure with not to exceed two (2) signs surfaces, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each fifty feet of street frontage. Permitted sign area shall be cumulative, but no sign surface shall exceed one hundred (100) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided however, that the zoning administrator may increase the measurement of the crown up to five (5) feet to accommodate unusual or undulating site conditions.

Projecting signs shall be limited to one (1) sign structure with not to exceed two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area; provided however that such permissible sign area shall be increased to eighty (80) square feet where maximum projection from the face of the building is two (2) feet or less, sixty (60) square feet where the projection is more than two (2) and less than three (3) feet, and forty (40) square feet where the projection is at least three (3), but not more than four (4) feet.

Real estate signs, limited to one (1) per street frontage and not to exceed half the area permissible for the same type of permanent sign on the premises.

Temporary civic and political campaign signs are allowed, subject to the exceptions limitations and responsibilities of subsections 925.3.11, 925.3.12 and 925.3.13, herein, respectively.

Wall signs, limited to two and one-half (2½) square feet of sign area for each lineal foot of wall fronting on a street if any portion of such sign is below fifteen (15) [sic] above grade. For each foot that the lowest portion of such sign exceeds fifteen (15) feet, permitted sign area shall be increased one (1) percent. Not more than three (3) such signs shall be permitted for each frontage on which area calculations are based, but one (1) of these signs may be mounted on a side wall.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which they are placed.

(Ord. No. 10863, § 1, 3-28-91; Ord. No. 11375, § 2, 6-27-96)

**Sec. 616. SD-16, 16.1, 16.2 Southeast Overtown-Park
West Commercial-Residential Districts.**

Sec. 616.11. Limitations on signs.

Sign limitations shall be as set forth in section 602.11, except in SD-16 and 16.1, animated and flashing signs and banners shall be permitted for ground level nonresidential uses fronting on N.E. and N.W. 9 Street. Onsite signs above a height of fifty (50) feet above grade shall be subject to the provisions of section 926.16. Offsite signs are prohibited.

(Ord. No. 10863, § 1, 3-28-91)

Sec. 620. SD-20 Edgewater Overlay District.

(Ord. No. 10801, § 1, 10-18-90)

Sec. 620.8. Limitations on signs.

Sign limitations shall be as for C-1 districts, except as provided below:

620.8.1. General limitations.

620.8.1.1. Signs more than fifteen (15) feet above grade.

1. Signs more than fifteen (15) feet above grade, but less than fifty (50) feet above grade. Signs erected with their lowest portions more than fifteen (15) feet above grade shall be limited to those identifying the building and the nature of the establishments it contains. Except as provided below, only one (1) such sign, not exceeding fifty (50) square feet in area for every one hundred fifty (150) feet of length of building wall oriented toward the street, shall be permitted. In addition to the Class II Special Permit required for such signs, referral to the urban development review board shall be mandatory for signs fifteen (15) feet above grade that exceed the allowable fifty (50) square feet of sign area. Area of such signs shall in no case exceed 1.5 square feet for each lineal foot of building wall frontage on a street.
2. Signs more than fifty (50) feet above grade. Signs erected with their lowest portions more than fifty (50) feet above grade shall be regulated generally by the limitations of section 926.16 of this zoning ordinance (including the criteria stated therein)

App. 150

except for the limitations on the sizes of the letters which shall be as follows:

- (a) Letters of signs on buildings with a height of one hundred (100) feet or more shall be permitted up to a height of eight (8) feet; and
- (b) Letters of signs on buildings with a height of one hundred fifty (150) feet or more shall be permitted up to a height of ten (10) feet.

In addition to the Class II Special Permit required for such signs, referral to the urban development review board shall be mandatory.

620.8.1.2. Signs fifteen (15) feet or less above grade; limitations on number and area. Wall signs (not including signs in glassed areas of windows or doors) and projecting signs erected with their highest portion fifteen (15) feet or less above grade shall be limited in total area to twenty (20) square feet, except as otherwise specifically provided herein (see section 609.8.2). Signs in glassed areas of windows and doors shall not exceed twenty (20) percent of the glassed area of the window or door involved.

620.8.1.3. Prohibited signs. Billboards, poster panels, balloon signs, ground or free-standing signs and other outdoor advertising signs shall be prohibited in this district. Other offsite signs shall be prohibited except for temporary civic and political campaign signs or except when signs are posted on community or neighborhood bulletin boards or kiosks, in accordance with limitations and regulations relating thereto at section 925.3.10 and those in special permits proceedings

on particular community or neighborhood bulletin boards or kiosks.

620.8.2. Detailed limitations, wall signs, projecting signs, window signs.

620.8.2.1. Within twenty (20) square feet maximum allowable, at or below fifteen (15) feet above grade, the following limitations shall apply to number and area of signs. Not more than one (1) wall sign may be erected per establishment unless the establishment has frontage along two (2) streets, in which case two (2) wall signs shall be permitted, one (1) on each wall fronting a street, and the maximum area of any such sign shall be twenty (20) square feet. Not more than one (1) projecting sign, other than a marquee sign, shall be erected, with not to exceed two (2) surfaces, neither of which shall exceed twenty-five (25) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building. Marquee signs shall be limited to one (1) per establishment and three (3) square feet in sign area.

620.8.3. Directional signs, number and area.

Directional signs, which may be combined with address signs, but shall bear no advertising, may be erected to indicate entrances, exits or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit or parking area.

(Ord. No. 11953, § 2, 7-27-00)

Sec. 622. SD-22 Florida Avenue Special District.

Sec. 622.11. Limitations on signs.

- (1) Address signs shall not exceed one (1) for each dwelling unit and each sign shall not exceed three (3) square feet in surface area.
- (2) Total signage is limited to ten (10) square feet per building. Signs must be front lit only and no illumination of signs shall cause spill-over onto adjacent properties.
- (3) No signage shall be placed above the first floor level.

(Ord. 11243, § 2, 3-27-95)

Sec. 908. Lot measurement.

908.7. Signs in or over required yards.

Signs may be erected in or may overhang required yards to the extent permitted in district regulations, but shall not be so constructed or located as to interfere with visibility triangle requirements or create traffic hazards. (See section 908.11 for visibility triangle requirements.)

Sec. 925. Signs, generally.

The following requirements and limitations shall apply with regard to signs, in addition to provisions appearing elsewhere in the text of these regulations or in the schedule of district regulations. No variance from these provisions is permitted.

925.1. Reserved.

925.2. Permits required for signs except those exempted, applications.

Except for classes of signs exempted from permit requirements of section 925.3, all signs shall require permits. Applications for such permits shall be made separately or in combination with applications for other permits, as appropriate to the circumstances of the case, on forms provided by the administrative official, and shall be accompanied by such information as is reasonably required to make necessary determinations in the case.

925.2.1. Permit identification required to be on sign.

Any sign requiring a permit or permits shall be clearly marked with the permit number or numbers and the name of the person or firm placing the sign on the premises.

925.3. Classes of signs and activities in relation to signs exempted from permit requirements; other limitations, regulations, and requirements remain applicable.

The following classes of signs or activities in connection with signs are exempted from permit requirements, but other limitations, regulations, and requirements concerning such signs or activities remain applicable except as otherwise provided:

925.3.1. Signs erected by or on order of governmental jurisdictions. Sign permits are not required for official signs erected by or on order of governmental jurisdictions, notwithstanding any limitations set out in these regulations.

925.3.2. National flags and flags of political subdivisions. Sign permits are not required for display of national flags or flags of political subdivisions.

925.3.3. *Decorative flags, bunting, and other decorations on special occasions.* No sign permit shall be required for display of decorative flags, bunting, and other decorations related to official holidays, or for celebrations, conventions, or commemorations when authorized by the city commission for a specified period of time.

925.3.4. *Symbolic flags, award flags, house flags.* No sign permit shall be required for display of symbolic, award, or house flags, limited in number to one (1) for each institution or establishment for the first fifty (50) feet or less of street frontage and one (1) for each fifty-foot increment of lot line adjacent to a street.

925.3.5. *Address, notice, and directional signs, warning signs.* No sign permit shall be required for address, notice, and directional signs or warning signs except as otherwise required in this ordinance.

925.3.6. *Signs on vehicles exempted generally; permit required for sign vehicles.* No sign permit shall be required for display of signs on automobiles, trucks, buses, trailers, or other vehicles when used for normal purposes of transportation. Signs displayed on sign vehicles shall require a sign permit, except for temporary political or civic campaign signs on vehicles.

925.3.7. *Real estate signs.* No sign permit shall be required for real estate signs, provided that the number and area of such signs shall not exceed maximums established for the district in which located, and district regulations shall be controlling as regards location on premises.

925.3.8. *Construction signs; development signs when combined with construction signs: development signs, Class I Special Permit, when required.* A sign permit shall be required for construction signs not exceeding two (2) feet in height and three (3) feet in width of sign surface area displayed during the course of actual construction work on the premises, limited to one (1) sign for each lot line adjacent to the street, or for combinations of construction and development signs so limited as to number and area, when displayed during such period. Development signs displayed prior to initiation of actual construction on the premises, or construction or development signs displayed following completion of actual construction, shall require a Class I Special Permit. Such Class I Special Permits shall be issued only after required development permits have been issued and shall specify that maximum time permissible between erection of the sign and beginning of construction, conditions under which the sign is to be removed if construction is not begun as specified or is not carried to completion diligently, and requirements for removal of limitations on continuation following construction.

Beyond these minimums, number and area of such signs shall not exceed maximums established for the district in which located and sign permits shall be required. District regulations shall be controlling as to location on premises, whether or not sign permits are required.

925.3.9. *Balloon.* Permitted only in conjunction with a special event by Class I Special Permit in conjunction with the event, and limited to a duration of no more than two (2) weeks (also see section 906.9 regarding limitations for special events).

Balloons suspended in air may not be elevated to a height greater than thirty-two (32) feet above the rooftop of the building in which the advertised use or occupant is located.

925.3.10. *Community or neighborhood bulletin boards, kiosks; Class I Special Permit required for establishment, but not for posting signs.* Class I Special Permits shall be required for establishment of community or neighborhood bulletin boards, including kiosks in districts where permissible, but no sign permits shall be required for posting of notices thereon.

Subject to approval by the officer or agent designated by the city manager, such signs may be erected on public property. Conditions of such Class I Special Permit shall include assignment of responsibility for erection and/or maintenance, and provision for removal if not properly maintained.

No such community or neighborhood bulletin board or kiosks shall be used in the conduct of the outdoor advertising business or for the display of outdoor advertising signs nor for the posting of general or continued advertising by commercial or service establishment.

925.3.11. *Temporary civic campaign signs.* No sign permit shall be required for temporary civic campaign signs displayed on private property, in nonresidential districts, not exceeding fifteen (15) square feet in sign surface area, and used in connection with civic noncommercial health, safety, or welfare campaigns, provided that all such signs shall exhibit the date of the conclusion of the campaign and shall be removed within three (3) days thereafter. Outdoor advertising

signs where otherwise permitted by terms of this ordinance are excluded from the terms of this subsection.

925.3.12. *Temporary political campaign signs.* No sign permit shall be required for temporary political campaign signs displayed on private property and used in connection with local, state and national political campaigns, subject to the following exceptions, limitations and responsibilities:

- (a) Outdoor advertising signs, where otherwise permitted by terms of this ordinance, are excluded from this section.
- (b) In residential zoning districts, the maximum size of such signs shall be limited to four (4) square feet per sign face; there shall be no more than two (2) sign faces per site.
- (c) The maximum height of such signs shall be limited to four (4) feet from grade to the top of signs.
- (d) Except for (a) above, the height and area of such signs shall be limited to the height and one-half ($\frac{1}{2}$) the area of offsite signs permitted.
- (e) Vision clearance areas shall be maintained at street corners and driveways (see section 926.8).
- (f) All signs must conform to the requirements of chapter 42 of the South Florida Building Code as may be amended, except for painted wall signs and paper signs in windows. Portable signs, except for sign vehicles, herein defined as "signs not secured to the ground in accordance with chapter 42 of the

South Florida Building Code, as may be amended," shall not be allowed.

- (g) Sign vehicles with temporary political campaign signs may be parked on private property in commercial and industrial districts for a period not to exceed sixteen (16) hours per day. No such sign vehicle shall be parked on private property in residential districts. No sign vehicles shall be parked closer than ten (10) feet from the base building line. Signs on a sign vehicle shall not be illuminated.
- (h) Signs shall not be installed in any zoning district until the subject candidate has qualified for a particular election; signs shall be removed within three (3) days after the conclusion of the particular election.
- (i) A candidate and/or property owner and/or tenant are responsible for any hazard to the general public which is caused by, or created by reason of, the installation and/or maintenance of temporary political campaign signs and also are responsible for prompt removal of such signs (see (h) above).

925.3.13. *Removal.* Any political or civic sign not posted in accordance with the provisions of this article and any such sign which exists in violation of this article shall be deemed to be a public nuisance and shall be subject to removal by the candidate, property owner or, when a proposition is involved, the person advocating the vote described on the sign.

925.3.14. *Cornerstones, memorials, or tablets.* No sign permit is required for cornerstones, memorials, or tablets when part of any masonry surface or

constructed of bronze or other incombustible and durable material and used to indicate, without advertising matter, such information as identification and date of construction of buildings, persons present at dedication or involved in development or construction, or significant historical events relating to the premises or development.

- 925.3.15. *Curbside delivery receptacles; general approval required; sign permit for individual delivery receptacles not required; limitations on location.* No sign permit shall be required for erection of curbside delivery receptacles for U.S. mail which have been approved for use by postal authorities. Where curbside delivery receptacles are intended for general use for other purposes (as for example in the case of newspaper deliveries), a Class I Special Permit with mandatory referral to the public works department shall be required for general approval of the design of any such receptacles as are proposed for use in residential districts, and for the color and wording to be used thereon. Following general approval, based on findings that the design, color, and wording of the proposed receptacle are appropriate in residential environments, sign permits for erection of individual delivery receptacles of this kind are not required.

No such curbside delivery receptacle shall extend closer than sixteen (16) inches to the outer edge of the curb or, in the absence of the curb, to the right-of-way line of any street.

- 925.3.16. *Signs on bus shelters, benches, trash receptacles, and the like.* Where bus shelters, benches, trash receptacles, or other structures or devices for promotion of public comfort, convenience, or

health are erected or maintained by public agencies, signs authorized by such agencies shall not require permits. Where such structures or devices are to be privately erected or maintained in districts other than residential, signs thereon shall be subject to limitations and requirements applying generally within such districts. Where such structures or devices are to be privately erected or maintained in residential districts, a Class I Special Permit with mandatory referral to the public works department shall be required for approval of design thereof, and in connection with such permit, limitations and requirements shall be established as to character, size, number and method of display and maintenance of any signs, as appropriate to the residential environment.

As appropriate to the circumstances of the case, Class I Special Permits of this type may be made applicable to individual structures or devices of the character described, or to specified numbers and locations, or to general classes of structures or devices, proposed for erection or maintenance by applicants.

925.3.17. *Weather flags.* No sign permit shall be required for weather flags for official notice of weather conditions authorized or displayed by official government agencies, provided that not more than one (1) set of such flags shall be permitted on any premises, and that any display of weather signals shall be an accurate reflection of official weather reports.

925.3.18. *Church signs.* Freestanding church signs for name and schedule of services shall be permitted, provided that the maximum size of such sign shall be forty (40) square feet.

925.3.19. *Freestanding perimeter wall signs.* Freestanding perimeter wall signs identifying a development shall be permitted, provided that the maximum square footage of such sign shall not exceed two (2) feet in height and ten (10) feet in width of sign surface area and that such signs shall be limited to one (1) sign per wall facing.

925.20. *Reserved.*

925.3.21. *Activities related to signs exempted from permit requirements.* No sign permit shall be required for routine change of copy on a sign, the customary use of which involves frequent and periodic changes, or for the relocation of sign embellishments, providing such relocation does not result in increase of total area of the sign beyond permissible limits. Where change in copy changes the class of sign to a nonexempt category, however (as for example when advertising matter is added to a previously exempt address or directional sign), a sign permit shall be required.

(Ord. No. 10976, § 1, 4-20-92; Ord. No. 11079, § 3, 7-22-93)

Sec. 926. Signs; specific limitations and requirements.

926.1. *Projecting signs, marquees, awnings, and the like; vertical and horizontal clearances.*

Vertical clearances, projections, and clearance from curblines as projected vertically, for projecting signs including marquees, and for awnings, canopies, and the like, whether or not bearing signs, shall be as provided in the South Florida Building Code, section 4208, Limitations on projecting signs; section 4304, Location and use (canvas

awnings and canopies); and section 4404, Location (rigid awnings, canopies, or canopy shutters).

Except as otherwise specified in these zoning regulations, projecting signs shall comply with the yard requirements of the districts in which located.

926.2. Roof signs; new roof signs prohibited.

With respect to repair of existing roof signs, the provisions of the South Florida Building Code, section 4206, Limitations on roof signs, shall apply. No permits shall be issued under this zoning ordinance for new roof signs.

926.3. Ground signs.

With respect to the location of ground signs, the provisions of the South Florida Building Code, section 4207, Limitations on ground signs, shall apply, provided, however, that where this zoning ordinance establishes further limitations on location of such signs, such limitations shall apply.

926.4. Structural wall signs or flat signs; clearance above public walkways.

Structural wall signs or flat signs shall provide clearance above public walkways as required by the South Florida Building Code, section 4209.5.

926.5. Limitations on wording and illumination of signs; prohibition against blocking egress, light, or ventilation.

In addition to the limitations and restrictions set forth in this zoning ordinance, the provisions of the South Florida Building Code, section 4209, Detailed requirements, shall apply with respect to blocking required

egress, light or ventilation, movement or rotation of sign parts in such a manner as to resemble danger lights or lights on emergency vehicles, wording on unofficial signs implying the need or requirement for stopping or the existence of danger when such conditions do not actually exist, or illumination likely to cause confusion with traffic signals.

926.5.1. *Real estate signs, construction signs, development signs shall not mislead as to zoning status of property.* No real estate, construction, or development sign shall in any manner state or convey or create the impression that such property may be used for any purpose for which it is not zoned, or that any structure may be used for purposes not permitted by zoning or other regulations.

926.5.2. *Limitations on illuminated or flashing signs; flashing signs prohibited in certain areas adjacent to residential districts.* No sign shall be illuminated or flashing unless such signs are specifically authorized by the regulations for the district in which erected.

Whether or not flashing signs are authorized generally within a district, no flashing sign shall be permitted within one hundred (100) feet of any portion of property in a residential district, as measured along the street frontage on the same side of the street, or as measured in a straight line to property across the street, if the flashing element of such sign is directly visible from the residential property involved (see also section 1107.2.1).

926.6. Prohibition against revolving or whirling signs and pennant or streamer signs; exception.

Revolving or whirling signs and pennant or streamer signs are hereby prohibited unless such signs are specifically authorized by the regulations for the district in which erected.

926.7. Limitations on use of sign vehicles.

For purposes of these regulations, sign vehicles shall be considered to be sign structures, subject to any regulations applying thereto and to signs displayed thereon, and shall also be subject to any regulations herein set forth or otherwise applying to vehicles and their storage, parking, or location on premises.

926.8. Prohibition against sign placement impeding visibility of traffic or pedestrians, or creating other hazards.

No sign or sign support structure shall be so placed as to create hazards to pedestrians or traffic on either public or private premises. In particular, no sign or sign support structure shall be so placed as to violate the provisions of section 908.11, Vision clearance at intersections, or to impede visibility of traffic or pedestrians at other points on public or private premises where such visibility is reasonably necessary to safety, or to create potential hazards to individual vehicles being driven or maneuvering incidental to parking, loading or unloading, on public or private premises.

926.9. Signs of historic significance.

Any sign determined to be of historic significance by the Historic and Environmental Preservation Board, through resolution that makes findings according to the

criteria below, may be exempted by Class II Special Permit from any sign limitation imposed by this ordinance. The placement of said sign may be as approved by said Class II Special Permit, in any zoning district deemed appropriate according to the considerations and standards below, by the director of the planning, building and zoning department.

926.9.1. *Historic sign criteria.* The Historic and Environmental Preservation Board may determine that a sign is of historic significance upon finding that said sign contributes to the cultural, historic, or aesthetic character of the city, neighborhood, or streetscape, due to its construction materials, age, prominent location, unique design, or craftsmanship from another period.

926.9.2. *Class II Special Permit required.* Upon receipt of the findings of historic significance by the Historic and Environmental Preservation Board, the director of the planning, building and zoning department may issue a Class II Special Permit allowing said historic sign to be repaired, restored, structurally altered, reconstructed, or relocated. The director may refer the application for a Class II Special Permit to the Historic and Environmental Preservation Board for review and recommendation.

926.9.2.1. *Class II Special Permits, considerations and standards.* The director shall be guided by the following considerations and standards in his decision as to the issuance of a Class II Special Permit:

- (a) Due consideration shall be given to the size, character, location, and orientation of the sign, with particular reference to traffic safety, glare, and compatibility with adjoining and nearby properties.

- (b) Due consideration shall also be given to the relative historic significance of the sign versus any potentially adverse effects on adjoining and nearby properties, the area, or the neighborhood with reference to location, construction, design, character, or scale.

926.10. Removal, repair, or replacement of certain signs; prohibition against repair or replacement of certain nonconforming signs ordered removed.

In addition to removal required for nonconforming signs at section 1107.2, the following rules, requirements, and limitations shall apply with regard to removal, repair, or replacement of certain signs, as indicated below. Orders concerning removal, repair, or replacement shall be guided by the following rules:

- (a) If such signs are otherwise lawful, except for the condition or circumstance leading to the order, the order shall require repair or replacement within a stated time, not to exceed ninety (90) days from the date of the order, or removal prior to the expiration of such period. Such order shall specify that, upon failure to comply within such period, the city shall cause the signs to be removed, with costs assessed against the owner or lessor of the property or the owner of the sign, as appropriate to the circumstances of the case.
- (b) If such signs are nonconforming under the terms of this ordinance by reason of character or location or the use with which associated, or exceed, in combination with other signs on the premises, limitations on number or area of signs, the order shall require any nonconforming signs to be removed or made to conform within a stated time, not to exceed ninety (90) days from the date of

the order, and shall specify as above with regard to removal by the city.

926.10.1. *Unsafe signs.* Unsafe signs, found to be so under the terms of section 202 of the South Florida Building Code, shall be removed, repaired or replaced as provided therein, if otherwise lawful. If nonconforming, such signs shall be removed.

926.10.2. *Decrepit or dilapidated signs.* Signs found to be decrepit or dilapidated (whether or not determined to be unsafe as provided above) shall be removed, repaired, or replaced if otherwise lawful. If nonconforming, such signs shall be removed.

926.10.3. *Onsite signs advertising establishments, commodities, or services no longer on premises.* Onsite signs advertising establishments, commodities, or services previously associated with the premises on which erected, but no longer there, shall be removed within six (6) months from the time such activity ceases. If otherwise lawful, such signs may be replaced by signs advertising establishments, commodities, or services currently associated with the premises. If nonconforming, such signs shall not be replaced.

926.10.4. *Offsite signs bearing obsolete advertising matter.* Offsite signs advertising establishments or attractions, commodities, or services which no longer exist or are no longer available, or bearing other obsolete advertising matter, shall be removed. If otherwise lawful, such signs may be replaced by current advertising material. If nonconforming, such signs shall not be replaced.

926.11. Structural members of signs required to be concealed or otherwise made visually unobtrusive.

Structural members of all signs, including supports, shall be covered, painted, and/or designed in such a manner as to be visually unobtrusive.

926.12. Signs of graphic or artistic value.

For the purposes of this section, commercial messages shall be defined as text, logos or display of products.

Graphic or artistic signs, or murals, with or without commercial messages and with no limitation to size, shall be permissible within the SD-6, SD-6.1 and CBD zoning districts, excluding those portions of these districts which lie north of I-395, by Class II Special Permit with city commission approval; said signs may be placed on the facade of buildings when it is determined by the city commission that the proposed signs comply with the following criteria and limitations:

1. The image is of graphic or artistic value or meets the criteria of the Miami-Dade County Art In Public Places ordinance;
2. The commercial message shall be limited to a maximum of ten (10) percent of the total graphic surface and shall be located in the margin of the graphic area; said commercial message may be located elsewhere if it is limited to five (5) percent of the total graphic surface;
3. If a for-profit entity has erected the sign or the sign advertises a for-profit entity or product, the city shall be paid a permit fee of five thousand dollars (\$5,000.00) for the first year and shall require annual renewals with fees equal to five (5)

percent of the gross proceeds from the advertising rights on said signs, or five thousand dollars (\$5,000.00), whichever is greater, the fee is not required for a change of copy;

4. Consideration for approvals shall also be given to the appropriateness of the proposed sign on an existing building (particularly if the building is historic) as well as the amount of such signs already existing within the immediate area or street; the purpose of this consideration is to ensure that the number of such signs do not have an overall adverse effect to the downtown area.
5. As a condition precedent to the issuance of the Class II Special Permit said sign must be submitted to the Urban Development Review Board "UDRB" for its review, consideration and approval.

926.13-926.14. *Reserved.*

926.15. *Outdoor advertising signs.*

Signs used in the conduct of the outdoor advertising business shall be regulated and restricted as follows in districts in which they are permitted:

926.15.1. *Limitations on sign area, including embellishments; limitations on projections of embellishments.* The area of an outdoor advertising sign shall not exceed seven hundred fifty (750) square feet, for each surface, including embellishments, if any (with sign and embellishment area as defined at section 2502).

Total area of embellishments, including portions falling within or superimposed on the general display area, shall not exceed one hundred (100) square feet.

No embellishment shall extend more than five (5) feet above the top of the sign structure, or two (2) feet beyond the sides or below the bottom of the sign structure.

Embellishments shall be included in any limitations affecting minimum clearance or maximum height of signs, permitted projections, or distance from any structure or lot or street line.

926.15.2. *Limitations on location, orientation, spacing, height, type and embellishments of outdoor advertising signs in relation to limited access highways and expressways.* Except as otherwise provided in section 926.15.1, outdoor advertising signs may be erected, constructed, altered, maintained or relocated within six hundred sixty (660) feet but no nearer than two hundred (200) feet of any limited access highway including expressways as established by the State of Florida or any of its political subdivisions, provided that such sign faces are parallel to or at an angle of not greater than thirty (30) degrees with the centerline of any such limited access highway and faced away from such highway.

926.15.2.1. No outdoor advertising sign which faces a limited access highway including expressways as established by the State of Florida to a greater degree than permitted in section 926.15.2. shall be erected, constructed, altered, maintained, replaced or relocated within six hundred sixty (660) feet of any such highways including expressways, easterly of I-95 and southerly of 36th Street.

Outdoor advertising signs, a maximum of ten (10) in number, including those presently in place, which face such limited access highways may be erected, constructed, altered, maintained, replaced or relocated within two hundred (200) feet of the westerly side or I-95 right-of-way lines, or that portion of the easterly side of I-95 which lies north of 36th Street, or of any limited access highway, including expressways as established by the State of Florida or any of its political subdivisions, westerly of I-95; or which lie easterly of I-95 and north of 36th Street, after city commission approval, and subject to the following conditions:

- (a) An outdoor advertising sign structure approved pursuant to this ordinance shall be spaced a minimum of fifteen hundred (1500) feet from another such advertising structure on the same side of a limited access highway including expressways facing in the same direction.
- (b) The height of the structure shall not exceed a height of fifty (50) feet measured from the crown of the main traveled road, and in no instance shall exceed a maximum height of sixty-five (65) feet measured from the crown of the nearest adjacent or arterial street.
- (c) The sign structure shall be of unipod construction with pantone matching color system PMS180U reddish brown or PMS463U dark brown or similar color, and with only two (2) sign faces back to back at a maximum horizontal

angle of thirty (30) degrees from each other.

- (d) No flashing, blinking or mechanical devices shall be utilized as a part of the outdoor advertising sign.
- (e) Sign area, embellishments and projections shall be as set forth in section 926.15.1.

926.15.3. *Limitations on spacing of outdoor advertising signs in relation to federal-aid primary highway systems.* Outdoor advertising signs shall be spaced a minimum of one thousand (1,000) feet from another sign, or an approved location, on the same side of a federal-aid primary highway.

926.15.4. *Landscaping.* All outdoor advertising sites shall be appropriately landscaped as follows: One (1) shade tree for the first five hundred (500) square feet of site area and one (1) side shade tree for each additional one thousand (1,000) square feet or portion thereof of site area; the remainder of the site area shall be landscaped with equal portions of hedges and/or shrubs and living ground cover. Said landscaping shall be provided with irrigation and be maintained in perpetuity.

926.15.4.1. *[Revocation.]* Any sign permit issued pursuant to section 926 et seq. shall be subject to revocation, subsequent to a public hearing by the city commission, should city inspectors find that the subject site is not being maintained according to approved landscaping plans or is being kept in an unclean or unsightly manner.

926.16. *Limitations on onsite signs above a height of fifty (50) feet above grade.*

Except as otherwise provided in section 609 of this zoning ordinance, the following regulations shall apply to all onsite signs above a height of fifty (50) feet above grade:

1. Building sign content shall be limited to the name of the building or the names of up to two (2) major tenant(s) of the building occupying more than five (5) percent of the gross leasable building floor area.
2. Signs shall consist only of individual letters and/or a graphic logotype. No graphic embellishments such as borders, or backgrounds shall be permitted.
3. The maximum height of a letter shall be as follows:

<i>If Any Portion of a Sign Is</i>	<i>Maximum Letter Height (feet)</i>
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Over fifty (50) feet but less than two hun- dred (200) feet above grade	4
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Over two hundred (200) feet but less than three hundred (300) feet above grade.....	6
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Over three hundred (300) feet but less than four hundred (400) feet above grade	8
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Over four hundred (400) feet above grade	9
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The maximum height of a logo may exceed the maximum letter height by up to fifty (50) percent if its width does not exceed its height. When text and a graphic logotype are combined in an integrated fashion to form a seal or emblem representative of an institution or corporation, and when this emblem is to serve as the principal means of building identification, the following regulations shall apply.

<i>If Any Portion of a Sign Is</i>	<i>Maximum Sign Surface (sq. ft)</i>
Over fifty (50) feet but less than two hundred (200) feet above grade	200
Over two hundred (200) feet but less than three hundred (300) feet above grade.....	300
Over three hundred (300) feet but less than four hundred (400) feet above grade	400
Over four hundred (400) feet above grade	500

4. The maximum length of the sign shall not exceed eighty (80) percent of the width of the building wall upon which it is placed, as measured at the height of the sign. The sign shall consist of not more than one (1) horizontal line of letters and/or symbols, unless it is determined through Class II review that two (2) lines of lettering would be more compatible with the building design. The total length of the two (2) lines of lettering, end-to-end, if permitted, shall

not exceed eighty (80) percent of the width of the building wall.

5. Not more than four (4) signs for a single major tenant or not more than two (2) signs shall be permitted per major tenant, defined as a tenant occupying more than five (5) percent of the gross leasable floor area of the building for a maximum of two (2) major tenants.
6. No variance from maximum size of letter, logotype, length of sign, number of signs or sign content shall be granted.
7. All sign permits shall be subject to Class II approval and review by the Urban Development Review Board (UDRB). The UDRB shall recommend its findings to the planning, building and zoning director. The planning, building and zoning director may waive review by the UDRB if such review procedures would delay issuance of a Class II Special Permit by more than twenty-one (21) days from the date of permit application. The UDRB and Class II design review shall be based on the following guidelines:
 - (a) Signs should respect the architectural features of the facade and be sized and placed subordinate to those features. Overlapping of functional windows, extensions beyond parapet edges obscuring architectural ornamentation or disruption of dominant facade lines are examples of sign design problems considered unacceptable.
 - (b) The sign's color and value (shades of light and dark) should be harmonious with building materials. Strong contrasts in color or value between the sign and building that draw undue visual attention to the sign at

the expense of the overall architectural composition shall be avoided.

- (c) In the case of a lighted sign, a reverse channel letter that silhouettes the sign against a lighted building face is desirable. Lighting of a sign should be accompanied by accent lighting of the building's distinctive architectural features and especially the facade area surrounding the sign. Lighted signs on unlit buildings are unacceptable. The objective is a visual lighting emphasis on the building with the lighted sign as subordinate.
- (d) Feature lighting of the building, including exposed light elements that enhance building lines, light sculpture or kinetic displays that meet the criteria of the Dade County art-in-public places ordinance, shall not be construed as signage subject to these regulations.

(Ord. No. 10771, § 1, 7-26-90; Ord. No. 10879, § 1, 4-25-91; Ord. No. 10998, § 1, 9-24-92; Ord. No. 11204, § 2, 11-17-94; Ord. No. 11315, § 1, 9-28-95; Ord. No. 11376, § 2, 6-27-96; Ord. No. 11604, § 3, 1-27-97; Ord. No. 11677, § 2, 6-23-98)

Sec. 934. Community based residential facilities.

934.2.2.6. Limitations on signs. Signs shall be limited to a nameplate not exceeding two (2) square feet for each street frontage.

Sec. 1107. Nonconforming characteristics of use.

1107.2. Signs.

The following provisions shall apply to signs as a nonconforming characteristic of use:

1107.2.1. Removal in residential districts. In all residential districts, nonconforming signs shall be removed within one (1) year of the effective date of this ordinance or its amendment, or within that period such signs shall be made to conform; provided, however, that nonconforming nonresidential uses in residential districts shall be permitted to maintain signs as provided in regulations for the first district in which such uses would be conforming.

1107.2.2. Removal in other districts. In any district other than residential, any sign, billboard, or commercial advertising structure which constitutes a nonconforming characteristic of use may be continued, provided no structural alterations are made thereto, subject to the following limitations on such continuance:

- (a) Any such sign except a roof sign shall be completely removed from the premises within five (5) years from the date it became nonconforming;
- (b) Article XXIV, section 1, subsection 7(a), and article XXVIII, section 3, subsection 3(a), Ordinance No. 6871, as amended, repealed by Ordinance No. 9500, as amended, the same being provisions dealing with roof signs and requiring their termination and removal from the

premises on which they are located not later than twelve (12) years following the date they became nonconforming, shall continue to be operative and given full force and effect. All legal proceedings begun and all legal proceedings that might have been begun under these provisions of Ordinance No. 9500, as amended, prior to the repeal of Ordinance No. 9500, as amended, shall be given full force and effect as though Ordinance No. 9500, as amended, had not been repealed.

(Ord. No. 10863, § 1, 3-28-91)

ARTICLE 13. SPECIAL PERMITS: GENERALLY

1304.2.3. Application forms; supplementary materials. During processing of an application, if it is determined by the designated agent, agency, or body of the city that in the particular circumstances of the case additional information is required to make necessary findings bearing on its approval, denial, or conditions and safeguards to be attached, such information may be requested. Failure to supply such supplementary information may be used as grounds for denial of the permit.

(Ord. No. 10863, § 1, 3-28-91; Ord. No. 10976, § 1, 4-20-92; Ord. No. 11079, § 4, 7-22-93)

Sec. 1305. Considerations generally; standards; findings and determinations required.

1305.4. Signs and lighting.

Review for adequacy shall be given to the number, size, character, location, and orientation of proposed signs, and of proposed lighting for signs and premises, with particular reference to traffic safety, glare, and compatibility and harmony with adjoining and nearby property and the character of the area.

ARTICLE 25. DEFINITIONS

Sec. 2502. Specific definitions.

Bulletin board. An outdoor display device accessory to and on the premises of places of worship, schools, or other institutions, auditoriums and the like for providing public notice identifying the premises and indicating nature and hours of events, names of principal officers, and the like. As employed in relation to these and other principal uses, the term is also intended to include outdoor display devices serving as directories and giving guidance as to the location of persons or uses on the premises.

Bulletin board, community or neighborhood. An outdoor display device intended and reserved for the free and informal posting of temporary notices by individuals or public or quasi-public organizations, clubs, and the like. Such notices may include announcements of neighborhood or community-wide meetings, entertainments or events, lost and found notices, notices offering or seeking employment, notices offering to buy or sell, or seeking or offering transportation or accommodations.

Frontage, as specially related to sign regulation and pedestrian streets/pathways. Adjacent to a street, whether at the front, rear, or side of a lot.

Kiosk. A freestanding bulleting board having more than two (2) faces.

Outdoor advertising business. An establishment which provides outdoor displays or display space on a lease or rental basis for general advertising and not primarily or necessarily for advertising related to the premises on which erected. Outdoor advertising signs shall be construed as including any billboards, poster panels, or other displays or display spaces or surfaces used in the conduct of the outdoor advertising business.

Sign. Any display that informs or attracts the attention of persons not on the premises on which it is located, provided, however that the following shall not be included in the application of these regulations:

- (a) Signs not exceeding one (1) square foot in area and bearing only property numbers, postbox numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
- (b) Flags and insignia of any government except when displayed in connection with commercial promotion;
- (c) Legal notices;
- (d) Identification, informational or directional signs erected or required by governmental bodies;
- (e) Integral ornamental or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.

Sign, address. Signs limited in subject matter to the street number and/or postal address of the property, the names of occupants, the name of the property, and, as appropriate to the circumstances, any matter permissible in the form of notice, directional, or warning signs, as defined below. Names of occupants may include indications as to their professions, but any sign bearing advertising matter shall be construed to be an advertising sign, as defined below.

Sign, advertising. Signs intended to promote the sale of goods or services, or to promote attendance at events or attractions. Except as otherwise provided, any sign bearing advertising matter shall be considered an advertising sign for the purposes of these regulations.

Sign, animated. Any sign or part of a sign which changes physical position by any movement or rotation or which gives the visual impression of such movement or rotation. Such displays are prohibited.

Sign, revolving or whirling. A revolving or whirling sign is an animated sign, which revolves or turns, or has external sign elements which revolve or turn, at a speed greater than six (6) revolutions per minute. Such sign may be power-driven or propelled by the force of wind or air.

Sign, banner. A sign made from flexible material suspended from a pole or poles, or with one (1) or both ends attached to a structure or structures. Where signs are composed of strings of banners, they shall be construed to be pennant or streamer signs.

Sign, canopy, marquee or awning. A sign painted, stamped, perforated, stitched or otherwise applied on the

valance of an awning, eyelid or other protrusion above or around a window, door or other opening on a facade.

Sign, construction. A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of individuals or entities associated with, participating in or having a role or interest with respect to the project. Notable features of the project under construction may be included in construction signs by way of text and/or images.

Sign, development. Onsite signs announcing features of proposed developments, or developments either completed or in process of completion.

Sign, directional. A sign containing an instructive message intended to guide traffic and devoid of any commercial connotations.

Sign, flashing. A sign which gives the effect of intermittent movement, or which changes to give more than one (1) visual effect. For the special purposes of these regulations, time and temperature signs shall not be construed to be flashing signs, but are regulated separately.

Sign, frontage, as related to regulation. Notwithstanding definitions in this zoning ordinance referring to lot frontage, for the purpose of regulating the number of signs, the term "fronting on a street," "street frontage," or "frontage" shall be construed as adjacent to a street, whether at the front, rear, or side of a lot.

Sign, ground or freestanding. Any non-movable sign not affixed to a building, a self supporting sign. Ground signs shall be construed as including signs mounted on

poles or posts in the ground, signs on fences, signs on walls other than the walls of buildings, signs on sign vehicles, portable signs for placement on the ground (A-frame, inverted T-frame and the like), signs on or suspended from tethered balloons or other tethered airborne devices, and signs created by landscaping. (See "portable sign" below).

Sign, hanging. A projecting sign suspended vertically from and supported by the underside of a canopy, marquee, awning or from a bracket or other device extending from a structure.

Sign, home occupation. A sign containing only the name and occupation of a permitted home occupation.

Sign, identification. A sign which contains no advertising but is limited to the name, address and number of a building, institution or person and to the activity carried on in the building or institution or the occupation of the person.

Sign, illuminated. A sign illuminated in any manner by an artificial light source. Where artificial lighting making the sign visible is incidental to general illumination of the premises, the sign shall not be construed to be an illuminated sign.

Sign, indirectly illuminated. A sign illuminated primarily by light directed toward or across it or by back-lighting from a source not within it. Sources of illumination for such signs may be in the form of gooseneck lamps, spotlights, or luminous tubing. Reflectorized signs depending on automobile headlights for an image in periods of darkness shall be construed to be indirectly illuminated signs.

Sign, internally (or directly) illuminated. A sign containing its own source of artificial light internally, and dependent primarily upon such source for visibility during periods of darkness.

Sign, notice, directional, and warning. For the special purposes of these regulations, notice, directional, and warning signs are defined as signs bearing no advertising matter and limited to providing notice concerning posting of property against trespass, directing deliveries or indicating location of entrance, exits and parking on private property, indicating location of buried utilities, warning against hazardous conditions, prohibiting salesmen, peddlers, or agents, and the like.

Sign, offsite. A sign other than an onsite sign. The term includes, but is not limited to, signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

Sign, onsite. A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. Onsite signs shall not be construed to include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.

Sign, outdoor advertising. A sign which provides outdoor displays or display space on a lease or rental basis for general advertising and not primarily or necessarily for advertising related to the premises on which erected. Outdoor advertising signs shall be construed as including any billboards, poster panels, or other displays or display spaces or surfaces used in the conduct of the outdoor advertising business.

Sign, pennant or streamer. Pennant or streamer signs or signs made up of strings of pennants, or composed of ribbons or streamers, and suspended over open premises and/or attached to buildings.

Sign, portable. A sign, not permanently affixed to a building, structure or the ground.

Sign, projecting. A sign wholly or partially attached to a building or other structure and which projects more than twelve (12) inches from its surface.

Sign, real estate. Signs used solely for the purpose of offering the property on which they are displayed for sale, rent, lease, or inspection or indicating that the property has been sold, rented, or leased. Such signs shall be nonilluminated and limited in content to the name of the owner or agent, an address and/or telephone number for contact, and an indication of the area and general classification of the property.

Real estate signs are distinguished in these regulations from other forms of advertising signs and are permitted in certain districts and locations from which other forms of advertising signs are excluded.

Sign, roof. A sign affixed in any manner to the roof of a building, or a sign mounted in whole or in part on the wall of the building and extending above the eave line of a pitched roof or the roof line (or parapet line, if a parapet exists) of a flat roof.

Sign, temporary. A sign or advertising display intended to be displayed for a limited and brief period of time.

Sign, time and temperature. A sign conveying lighted messages indicating time, temperature, tide change, barometric pressure, or wind speed and direction, by means of illuminated letters or numbers with change intervals for such messages of not less than (4) seconds. For purposes of these regulations, time and temperature signs shall not be construed to be flashing signs or animated signs.

Sign, vehicle. A trailer, automobile, truck, or other vehicle used primarily for the display of signs (rather than with sign display incidental to use of the vehicle for transportation). For purposes of these regulations, signs or sign vehicles shall be considered to be ground signs except for temporary political or civic campaign signs on sign vehicles.

Sign, wall or flat. A sign painted on the outside of a building, or attached to, and erected parallel to the face of a building, and supported throughout its length by such building.

Sign, window. A sign painted, attached or affixed in any manner to the interior or exterior of a window which is visible, wholly or in part from the public right-of-way.

Sign structure. A structure for the display or support of signs. In addition, for purposes of these regulations, and notwithstanding the definition of structure generally applicable in these zoning regulations, any trailer or other vehicle, and any other device which is readily movable and designed or used primarily for the display of signs (rather than with signs as an accessory function) shall be construed to be a sign structure, and any signs thereon shall be limited in area, number, location, and other characteristics

in accordance with general regulations and regulations applying in the district in which displayed.

Signs, area of. The surface area of a sign shall be computed as including the entire area within a parallelogram, triangle, circle, semicircle or other regular geometric figure, including all of the elements of the matter displayed, but not including blank masking (a plain strip, bearing no advertising matter around the edge of a sign), frames, display of identification or licensing officially required by any governmental body, or structural elements outside the sign surface and bearing no advertising matter. In the case of signs mounted back-to-back or angled away from each other, the surface area of each sign shall be computed. In the case of cylindrical signs, signs in the shape of cubes, or other signs which are substantially three-dimensional with respect to their display surfaces, the entire display surface or surfaces shall be included in computations of area.

In the case of embellishments (display portions of signs extending outside the general display area), surface area extending outside the general display area and bearing advertising material shall be computed separately as part of the total surface area of the sign.

Notwithstanding definitions in this zoning ordinance referring to lot frontage, for the purpose of regulating the area of signs, the terms "fronting on a street," "street frontage," or "frontage" shall be construed as adjacent to a street, whether at the front, rear, or side of a lot. (See also diagram on number and area of signs.)

Signs, number of. For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements

organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of units, where strings of lights are used, or where there is a reasonable doubt about relationship of elements, each element or light shall be considered to be a single sign. Where sign surfaces are intended to be read from different directions (as in the case of signs back-to-back or angled from each other), each surface shall be considered to be a single sign.

Notwithstanding definitions in this zoning ordinance referring to lot frontage, for the purpose of regulating the number of signs, the term "fronting on a street," "street frontage," or "frontage" shall be construed as adjacent to a street, whether at the front, rear, or side of a lot.

Symbolic, award flags, house flags or banners. Flags or banners identifying institutions or establishments symbolically or indicating special awards, but bearing no advertising matter other than the symbol of the institution or establishment.

OFFICE OF THE CLERK
In The
Supreme Court of the United States

NATIONAL ADVERTISING CO.,
a Delaware corporation,

Petitioner,

v.

CITY OF MIAMI,
a Florida municipal corporation,

Respondent.

**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Eleventh Circuit**

**APPENDIX TO
PETITION FOR A WRIT OF CERTIORARI
VOLUME II, PAGES 189 to 504**

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TABLE OF CONTENTS

Page

VOLUME I

1.	<u>Lower Court Opinions</u>	
a.	U.S. Eleventh Circuit Court of Appeals – Case 03-15593 – March 21, 2005.....	App. 1
b.	Judgment U.S. Eleventh Circuit Court of Appeals – Case 03-15593 – issued as mandate May 25, 2005.....	App. 15
c.	Southern District of Florida – Case 01-3039- CV-JLK – Memorandum Opinion Granting Summary Judgment – Sept. 25, 2003	App. 16
2.	<u>Lower Court Opinions in Companion Case</u>	
a.	U.S. Eleventh Circuit Court of Appeals – Case 03-15516 – March 21, 2005.....	App. 74
b.	Southern District of Florida – Case 02- 20556-CV-JLK – Memorandum Opinion Granting Summary Judgment – Sept. 26, 2003	App. 83
3.	<u>Order Denying Petitions for Rehearing and Rehearing En Banc</u> – U.S. Eleventh Circuit Court of Appeals – Case 03-15593 – May 17, 2005.....	App. 104
4.	<u>Constitutional Provisions</u>	App. 106
5.	<u>Material Required by Subparagraphs 1(f) or 1(g)(i)</u>	
a.	All Sections of the Zoning Ordinance of the City of Miami, Florida, as amended through July 27, 2000, that Regulate Outdoor Advertising	App. 107

TABLE OF CONTENTS – Continued

Page

VOLUME II

b.	Miami City Commission Ordinance Nos. 12211, 12212, 12213, 12214, and 12215; Resolution Nos. 02-392 & 02-393	App. 189
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J-02-350

4/11/02

ORDINANCE NO. 12211

AN EMERGENCY ORDINANCE OF THE MIAMI CITY COMMISSION TO ESTABLISH AN IMMEDIATE EFFECTIVE DATE UPON ADOPTION BY THE MIAMI CITY COMMISSION OF ORDINANCE NO. 12213 WHICH AMENDED ORDINANCE NO. 11000, ARTICLES 4, 5, 6, 9, 10, 11 AND 25 OF THE ZONING ORDINANCE TO MODIFY PROVISIONS REGARDING SIGN AND USE REGULATIONS AS THEY PERTAIN TO OUTDOOR ADVERTISING BUSINESSES; CONTAINING A REPEALER PROVISION AND A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Florida Legislature has adopted House General Bill 0715, as amended, which Bill was signed into law on April 4, 2002 and is now known as Chapter No. 2002-13, Laws of Florida ("Billboard law"); and

WHEREAS, the Billboard law requires a process for governmental entities and owners of outdoor advertising billboards to enter into "relocation and reconstruction agreements" regarding outdoor advertising billboards whenever government entities remove or cause the removal of certain lawfully erected billboards, or cause the alteration of such billboards if the alteration constitutes a taking under state law, and further requires just compensation to billboard owners if agreements cannot be reached; and

WHEREAS, the Billboard law applies only to "lawfully erected sign[s] the subject matter of which relates to premises other than the premises on which it is located or to merchandise, services, activities, or entertainment not sold, produced, manufactured, or furnished on the premises on which the sign is located," and thus applies to lawfully erected outdoor advertising billboards in designated areas; and

WHEREAS, the Billboard law amends Sections 163.3180, 334.044, 339.135, and 479.15, Florida Statutes, and creates Sections 70.20 and 479.25, Florida Statutes, and amends the term "federal-aid primary highway system" as used in the Billboard law; and

WHEREAS, the Billboard law becomes effective July 1, 2002, and may have a significant adverse impact upon the ability of local municipalities such as the City of Miami to exercise Home Rule police powers with respect to the outdoor advertising industry; and

WHEREAS, the Billboard law may cause a significant financial burden upon municipalities such as the City of Miami if agreements cannot be reached to remove billboards, and if as a result "just compensation" must be paid to the outdoor advertising industry for removal or alteration of outdoor advertising billboards; and

WHEREAS, it is in the best interests of the City and its residents that the City be prepared to address concerns and potential problems that will be caused by the Billboard law immediately upon its effective date; and

WHEREAS, the short period of time that remains before the effective date of the Billboard law has created an emergency in that there is an immediate need for the

City to develop processes and procedures necessary to implement the Billboard law in a manner that is in the best interests of the City and its residents, no later than July 1, 2002; and

WHEREAS, prior to the enactment of the Billboard law, the Miami City Commission was in the process of passing and adopting Ordinance No. 12213 amending Ordinance No. 11000, by amending Articles 4, 5, 6, 9, 10, 11 and 25 of the Zoning Ordinance to modify provisions regarding sign regulations and to modify use regulations as they pertain to outdoor advertising businesses; and

WHEREAS, to ensure that the City of Miami is able to enact the necessary procedures in order to implement the Billboard law by July 1, 2002 and to avoid possible financial burdens as a result thereof, the City of Miami Commission deems it necessary to make Ordinance No. 12213 effective immediately;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. An immediate effective date upon adoption of Ordinance No. 12213 which amended Ordinance No. 11000, Articles 4, 5, 6, 9, 10, 11 and 25 of the Zoning Ordinance to modify provisions regarding sign and use regulations as they pertain to outdoor advertising businesses is established.

Section 3. All ordinances or parts of ordinances that are inconsistent or in conflict with the provisions of this Ordinance are repealed.

Section 4. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 5. This Ordinance is declared to be an emergency measure on the grounds of urgent public need for the preservation of peace, health, safety, and property of the City of Miami and to generally carry on the functions and duties of municipal affairs.

Section 6. The requirement of reading this Ordinance on two separate days is dispensed with by an affirmative vote of not less than four-fifths of the members of the Commission.

Section 7. This Ordinance shall become effective immediately upon its adoption and signature of the Mayor.¹

PASSED AND ADOPTED BY TITLE ONLY this 11th day of April, 2002.

/s/ Manuel A. Diaz
MANUELA. DIAZ, MAYOR

ATTEST:

/s/ Priscilla A. Thompson
PRISCILLA A. THOMPSON
CITY CLERK

¹ If the Mayor does not sign this Ordinance, it shall become effective at the end of ten calendar days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission.

App. 193

APPROVED AS TO FORM AND CORRECTNESS:

/s/ [Illegible]

ALEJANDRO VILARELLO
CITY ATTORNEY

W1255:JEM:BSS

J-02-349

4/11/02

ORDINANCE NO. 12212

AN EMERGENCY ORDINANCE OF THE MIAMI CITY COMMISSION TO ESTABLISH AN IMMEDIATE EFFECTIVE DATE UPON ADOPTION BY THE MIAMI CITY COMMISSION OF ORDINANCE NO. 12215 ESTABLISHING A TEMPORARY MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR OUTDOOR ADVERTISING SIGNS REGULATED UNDER SECTION 926.15, ET. SEQ., OF THE ZONING ORDINANCE OF THE CITY OF MIAMI; CONTAINING A REPEALER PROVISION AND A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature has adopted House General Bill 0715, as amended, which Bill was signed into law on April 4, 2002 and is now known as Chapter No. 2002-13, Laws of Florida ("Billboard law"); and

WHEREAS, the Billboard law requires a process for governmental entities and owners of outdoor advertising billboards to enter into "relocation and reconstruction agreements" regarding outdoor advertising billboards whenever government entities remove or cause the removal of certain lawfully erected billboards, or cause the alteration of such billboards if the alteration constitutes a taking under state law, and further requires just compensation to billboard owners if agreements cannot be reached; and

WHEREAS, the Billboard law applies only to "lawfully erected sign[s] the subject matter of which relates to premises other than the premises on which it is located or to merchandise, services, activities, or entertainment not sold, produced, manufactured, or furnished on the premises on which the sign is located," and thus applies to lawfully erected outdoor advertising billboards in designated areas; and

WHEREAS, the Billboard law amends Sections 163.3180, 334.044, 339.135, and 479.15, Florida Statutes, and creates Sections 70.20 and 479.25, Florida Statutes, and amends the term "federal-aid primary highway system" as used in the Billboard law; and

WHEREAS, the Billboard law becomes effective July 1, 2002, and may have a significant adverse impact upon the ability of local municipalities such as the City of Miami to exercise Home Rule police powers with respect to the outdoor advertising industry; and

WHEREAS, the Billboard law may cause a significant financial burden upon municipalities such as the City of Miami if agreements cannot be reached to remove billboards, and if as a result "just compensation" must be paid to the outdoor advertising industry for removal or alteration of outdoor advertising billboards; and

WHEREAS, it is in the best interests of the City and its residents that the City be prepared to address concerns and potential problems that will be caused by the Billboard law immediately upon its effective date; and

WHEREAS, the short period of time that remains before the effective date of the Billboard law has created an emergency in that there is an immediate need for the

City to develop processes and procedures necessary to implement the Billboard law in a manner that is in the best interests of the City and its residents, no later than July 1, 2002; and

WHEREAS, prior to the enactment of the Billboard law, the Miami City Commission was in the process of passing and adopting Ordinance No. 12215 establishing a temporary moratorium on the acceptance of applications for outdoor advertising signs as regulated under section 926.15, et. seq. of the City of Miami Zoning Code; and

WHEREAS, to ensure that the City of Miami is able to enact the necessary procedures in order to implement the Billboard law by July 1, 2002 and to avoid possible financial burdens as a result thereof, the City of Miami Commission deems it necessary to make Ordinance No. 12215 effective immediately;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. An immediate effective date upon adoption of Ordinance No. 12215 establishing a temporary moratorium on the acceptance of applications for outdoor advertising signs regulated under Section 926.15, et. seq., of the Zoning Ordinance of the City of Miami is established.

Section 3. All ordinances or parts of ordinances that are inconsistent or in conflict with the provisions of this Ordinance are repealed.

Section 4. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 5. This Ordinance is declared to be an emergency measure on the grounds of urgent public need for the preservation of peace, health, safety, and property of the City of Miami and to generally carry on the functions and duties of municipal affairs.

Section 6. The requirement of reading this Ordinance on two separate days is dispensed with by an affirmative vote of not less than four-fifths of the members of the Commission.

Section 7. This Ordinance shall become effective immediately upon its adoption and signature of the Mayor.¹

PASSED AND ADOPTED BY TITLE ONLY this ____ day of ____, 2002.

/s/ Manuel A. Diaz
MANUEL A. DIAZ, MAYOR

ATTEST:

/s/ Priscilla A. Thompson
PRISCILLA A. THOMPSON
CITY CLERK

¹ If the Mayor does not sign this Ordinance, it shall become effective at the end of ten calendar days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission.

App. 198

APPROVED AS TO FORM AND CORRECTNESS:

/s/ [Illegible]
ALEJANDRO VILARELLO
CITY ATTORNEY

W1254:JEM:BSS

J-02-160

02/21/02

ORDINANCE NO. 12213

AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING ORDINANCE NO. 11000, AS AMENDED, THE ZONING ORDINANCE OF THE CITY OF MIAMI, BY AMENDING ARTICLES 4, 5, 6, 9, 10, 11, AND 25 TO MODIFY PROVISIONS REGARDING SIGN REGULATIONS AND TO MODIFY USE REGULATIONS AS THEY PERTAIN TO OUTDOOR ADVERTISING BUSINESSES; AND FURTHER BY CLARIFYING LANGUAGE PERTAINING TO REAL ESTATE SIGNS, AND BY ALLOWING FOR HEIGHT VARIANCES FOR BILLBOARDS ONLY WHEN A GOVERNMENTAL ACTION AFFECTS REASONABLE VISIBILITY OF SUCH A SIGN; CONTAINING A REPEALER PROVISION AND SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 1990, the City Commission adopted Ordinance No. 11000 prohibiting certain theretofore legal advertising structures in the C-1 and more restrictive zoning districts of the City of Miami, and granted a five-year amortization period for the removal of all non-conforming structures in these Districts; and

WHEREAS, many of these advertising structures were not removed as required after the five-year amortization period expired in 1995, and remain in place today; and

WHEREAS, in [sic] September 14, 2000, the City Commission authorized the appointment of an Outdoor

Advertising Review Committee to study issues and problems relating to sign regulations, enforcement, and the proliferation of outdoor advertising billboards in the City; and

WHEREAS, most members of the Review Committee were associated with the outdoor advertising industry, and thus the recommendations of the Review Committee suggested permitting more billboards of an even greater size in districts, without addressing issues of aesthetics and over-proliferation; and

WHEREAS, the City planning and zoning staff found the recommendations of the Review Committee to be not in the best interests of the City, and therefore issued their own recommendations; and

WHEREAS, in May, 2001, the commission directed the Manager to schedule a public meeting in which City management and billboard industry would review enforcement history and document any technical issues regarding billboard compliance and bring back recommendations to the Commission; and

WHEREAS, at the City Commission meeting of July 10, 2001, the Neighborhood Enhancement Team ("NET") provided a comprehensive report to the City Commission regarding the status of outdoor advertising signs in the City of Miami; and

WHEREAS, NET has determined that certain outdoor advertising signs in the City do not conform with provisions of the City of Miami Zoning Ordinance, as amended; and

WHEREAS, the City Commission has determined to enforce its sign regulations, and to enforce the removal of

all illegal signs, including those non-conforming signs whose amortization period has expired; and

WHEREAS, in response to litigation and other threats made by the outdoor advertising industry and to codify the City's interpretation of its zoning ordinance with respect to signage, specifically that noncommercial messages have always been allowed to be placed in lieu of commercial messages on any sign allowed, the City Commission has determined to adopt a comprehensive, amended sign code addressing certain legal issues and reflecting recommendations made by the planning and zoning staff, including the prohibition on additional billboards in certain districts of the City to reduce visual clutter and blight; and

WHEREAS, the Commission has again made clear its continued intent to permit non-commercial messages on any sign or sign structure otherwise permitted by those sign regulations, and has also made clear its intent that these regulations be severable in the event of further legal challenges; and

WHEREAS, the City Commission wishes to institute a mechanism by which certain existing outdoor advertising signs located in the C-2 District and not along any portion of the interstate or federal-aid highway system may remain, provided: (1) such signs are legal as of the date of the adoption of this Ordinance, and (2) such signs obtain [sic] within one hundred and twenty (120) days of the expiration of the five (5) year amortization period specified herein, a Class II Special Permit and pay mitigation fees, such mitigation fees to be deposited into a trust fund, as specified herein, in order to provide a funding source to implement certain mitigation measures that will offset the negative visual impact of outdoor advertising signs; and

WHEREAS, the City Commission has determined that outdoor advertising businesses on private property shall require independent review, must be properly licensed, and shall not be allowed as a use of land in certain districts; and

WHEREAS, the Miami Planning Advisory Board, at its meeting of February 6, 2002, Item No. 1, following an advertised hearing, adopted Resolution No. PAB-10-02, by a vote of six to zero (6-0), recommending approval (with modifications pertaining to xeriscape landscaping and increasing the size of real estate signs) of amending Zoning Ordinance 11000 as hereinafter set forth; and

WHEREAS, notwithstanding the recommendations for modifications from the Planning Advisory Board, the Planning and Zoning Department recommend that the modification pertaining to real estate signs not be incorporated into this amendment; and

WHEREAS, the City Commission, after careful consideration of the matter, deems it advisable and in the best interest of the general welfare of the City of Miami and its inhabitants to amend Ordinances [sic] No. 11000 as hereinafter set forth;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference ~~thereto~~ and incorporated ~~herein~~ as if fully set forth in this Section.

Section 2. Ordinance No. 11000, as amended, the Zoning Ordinance of the City of Miami, Florida, is

amended by amending the text of said Ordinance as follows:¹

“ARTICLE 4. ZONING DISTRICTS

* * *

Sec. 401. Schedule of district regulations.

Specifically excluded from all districts in the city are stockyards, slaughterhouses, wrecking yards, cement plants, paper factories, ammunition plants, fireworks manufacturing, housebarges, refining, smelting, forging, and unattended donation collection bins as defined in Article 25. In addition, except as otherwise specifically permitted in certain nonresidential districts, new freestanding signs associated with outdoor advertising businesses shall also be excluded (administrative offices for the outdoor advertising industry, shall be permitted generally as office uses).

CS Conservation.

* * *

Sign Regulations:

~~Only identification and directional signs by Class II Special Permit.~~

See Article 10 for sign regulations and limitations.

PR Parks, Recreation and Open Space.

* * *

¹ Words and/or figures stricken through shall be deleted. Under-scored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

Sign Regulations:

~~Only name of facility and directional signs by Class I Special Permit.~~

See Article 10 for sign regulations and limitations.

R-1 Single-Family Residential.

* * *

Sign Regulations:

See Article 10 for sign regulations and limitations.

~~In connection with each dwelling unit and all other uses:~~

~~1. Address signs, not to exceed one (1) for each dwelling unit or other use for each lot line adjacent to a street, or two (2) square feet in area, except as provided below.~~

~~2. Notice, directional and warning signs, not to exceed one (1) for each dwelling unit or other use for each lot line adjacent to a street, or two (2) square feet in area, provided that, where such signs are combined with address signs, maximum total area shall not exceed three (3) square feet.~~

~~Such signs, if freestanding, shall not exceed three (3) feet in height, be closer than ten (10) feet to any adjacent lot, or be closer than two (2) feet to any street line. Such signs shall not be illuminated. (For signs related to home occupations, see section 906.5(d).)~~

~~In connection with child daycare centers: Not to exceed one (1) identification sign per establishment with a maximum area of two (2) square feet.~~

~~In connection with subdivisions, developments, neighborhoods or similar areas: Not to exceed one (1) permanent identification sign, or ten (10) square feet in area, per principal entrance. Such signs shall not be illuminated or internally illuminated.~~

~~In connection with advertising real estate upon which posted for sale, rent or lease: Not to exceed one (1) real estate sign, or four (4) square feet in area, for each lot line adjacent to a street. Such signs shall be nonilluminated.~~

~~In connection with active and continuing new construction work in progress: Except for PD development, construction signs shall not exceed one (1) construction sign, or six (6) square feet in area, for each lot line adjacent to a street. Such signs shall not be illuminated. PD-H (article 5) construction signs shall not exceed twenty (20) square feet in area, one (1) for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit as provided in section 925.3.8.~~

~~In connection with places of worship, primary and secondary schools: As for O.~~

~~Temporary political or civic campaign signs: Allowed subject to the exceptions, limitations and responsibilities of subsections 925.3.11, 925.3.12 and 925.3.13.~~

R-2 Two-Family Residential.

* * *

Sign Regulations:

Same as for R-1 Single-Family Residential.

See Article 10 for sign regulations and limitations.

R-3 Multifamily Medium-Density Residential.

* * *

Sign Regulations:

~~In connection with each dwelling unit and all other uses:~~

~~1. Address signs, not to exceed one (1) for each dwelling unit or other use for each lot line adjacent to a street, or two (2) square feet in area, except as provided below.~~

~~2. For each lot line adjacent to a street, one (1) wall sign not exceeding forty (40) square feet in area, or one (1) projecting sign with combined surface area not exceeding forty (40) square feet, and one (1) address and/or directional sign, not exceeding twenty (20) square feet. Such address and/or directional, notice or warning sign, if freestanding, shall not be closer than six (6) feet to any adjacent lot line or be closer than two (2) feet to any street line.~~

~~3. Notice, directional and warning signs, not to exceed one (1) for each dwelling unit or other use for each lot line adjacent to a street, or two (2) square feet in area, provided that, where such signs are combined with address signs, maximum total area shall not exceed three (3) square feet. Address, notice, directional warning signs, if freestanding, shall not exceed three (3) feet in height, be closer than ten (10) feet to any adjacent lot, or be closer than two (2) feet to any street line.~~

~~Area of permitted wall signs may be increased two and one half (2½) square feet for each foot above the first ten (10) feet of building height from grade at the bottom of the wall (averaged if sloping or irregular) to the bottom of the sign.~~

~~Child care centers: Same as permitted in R-1.~~

~~Community or neighborhood bulletin boards or kiosks:
Shall be permissible only by Class I Special Permit, as
provided at section 925.3.10.~~

~~Construction: Not to exceed one (1) construction sign, or
thirty (30) square feet in area for each lot line adjacent to
a street. Development signs shall not be permitted except
in conjunction with such construction signs or by Class I
Special Permit as provided in section 925.3.8.~~

~~Home occupations: See section 906.5(d).~~

~~Real estate advertising for sale, rent or lease: Not to
exceed one (1) real estate sign, or four (4) square feet in
area, for each lot line adjacent to a street.~~

~~Subdivision, developments, neighborhoods or similar areas:
Not to exceed one (1) permanent identification sign or ten
(10) square feet in area, per principal entrance.~~

~~Temporary political and civic campaign signs: Allowed
subject to the exceptions, limitations and responsibilities
of subsections 925.3.11, 925.3.12 and 925.3.13.~~

See Article 10 for sign regulations and limitations.

R-4 Multifamily High-Density Residential.

* * *

Sign Regulations:

~~Same as in R-3 district.~~

See Article 10 for sign regulations and limitations.

O Office.

* * *

Sign Regulations:

As for R-4, except as specified below:

~~Limitations on signs in relation to clinic uses therein shall apply to all office or clinic uses in this district. In addition, for each lot line adjacent to a street, address and/or directional sign, not exceeding twenty (20) square feet, such address and/or directional, notice or warning sign, if freestanding, shall not be closer than six (6) feet to any adjacent lot or closer than two (2) feet to any street line.~~

~~Area of permitted wall signs may be increased two and one half (2½) square feet for each foot above the first ten (10) feet of building height from grade at the bottom of the wall (averaged if sloping or irregular) to the bottom of the sign.~~

~~Community or neighborhood bulletin boards or kiosks shall be permissible only by Class I Special Permit, as provided at section 925.3.10.~~

~~Development signs, except where combined with construction signs, shall be permissible only by Class I Special Permit as provided at section 925.3.8.~~

~~Signs for hotel uses shall be subject to Class II Special Permit review. The Class II Special Permit shall give due consideration to the orientation of said signs to ensure that they are oriented away from adjacent residential uses so as to minimize the potential adverse effects resulting from lighting spillover. Signage for hotels shall conform to the following guidelines:~~

- ~~1. Directional signs, which may be combined with address signs but shall bear no advertising matter, may be~~

~~erected to guide toward entrances, exits, or parking areas, but shall not exceed five (5) square feet in surface area. Such signs shall be permanent, weather resisting fixtures well anchored to the ground so as not to be readily removable and shall stand alone, not be attached to other fixtures or plantings.~~

~~2. Ground or monument signs, excluding pole signs, limited to one (1) sign structure with not to exceed two (2) sign surfaces neither of which shall exceed forty (40) square feet in sign area. One (1) such sign shall be allowed for each one hundred (100) feet of frontage. Such signs shall consist of a solid and opaque surface which shall contain all lettering and/or graphic symbols, none of which shall be internally illuminated. Maximum height limitations shall be ten (10) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that upon finding that there are unusual or undulating site conditions the zoning administrator may increase the measurement of the crown by up to five (5) feet to accommodate these conditions.~~

~~3. Wall signs, limited to one (1) square foot of sign area for each lineal foot of wall fronting on a street. Not more than three (3) such signs shall be permitted per hotel. No signs will be permitted on frontages which face residentially zoned property within a radius of one thousand (1,000) feet.~~

See Article 10 for sign regulations and limitations.

G/I Government and Institutional.

* * *

Sign Regulations:

~~Onsite signs only shall be permitted in these districts; subject to Class II Special Permit procedures and review as set forth in Articles 13 and 15 of this zoning ordinance; as well as the following requirements and limitations:~~

~~Except as otherwise provided, such signs may be illuminated but shall not be animated or flashing. At retail or service establishments, in addition to identifying the principal business, commodity or service, such signs may devote not more than half of their actual aggregate area to the advertising of subsidiary products sold or services rendered on the premises:~~

~~1. Construction signs; not to exceed one (1) construction sign or thirty (30) square feet in area, for each lot line adjacent to a street:~~

~~2. Development signs, except where combined with construction signs, shall be permissible subject to the provisions as provided at section 925.3.8:~~

~~3. Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas, but shall not exceed five (5) square feet in surface area:~~

~~4. Ground or freestanding signs, limited to one (1) sign structure with not to exceed two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each fifty (50) feet of street frontage. Permitted sign area shall be cumulative, but no sign surface shall exceed one hundred (100) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including~~

~~limited access highways or expressways, provided, however, that the zoning administrator may increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions upon finding that such conditions exist.~~

~~5. Projecting signs (other than marquee signs) shall be limited to one (1) sign structure with not to exceed two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area.~~

~~6. Real estate signs, limited to one (1) per street frontage and not to exceed half the area permissible for the same type of permanent sign on the premises.~~

~~7. Temporary civic and political campaign signs are allowed, subject to the exceptions, limitations and responsibilities of subsections 925.3.11, 925.3.12 and 925.3.13 respectively.~~

~~8. Wall signs, limited to two and one half (2½) square feet of sign areas for each lineal foot of wall fronting on a street if any portion of such sign is below fifteen (15) feet above grade. For each foot that the lowest portion of such sign exceeds fifteen (15) feet, permitted sign area shall be increased one (1) percent. Not more than three (3) such signs shall be permitted for each frontage on which area calculations are based, but one of these may be mounted on a side wall.~~

~~9. Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.~~

See Article 10 for sign regulations and limitations.

C-1 Restricted Commercial.

* * *

Conditional accessory uses:

Outdoor advertising businesses shall be permissible as an accessory use to principal commercial uses only, subject to a Class II Special Permit and further limited as follows:

- a. Signs shall be wall mounted only on side walls of the existing principal commercial structure;
- b. Signs shall be limited to one sign per structure only and shall not be freestanding;
- c. Sign area shall be limited to no greater than thirty-two (32) square feet;
- d. Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused from the total permissible wall sign area for the structure in question; see Article 10 for specific sign regulations and method of calculations; and
- e. Such signs may either be painted or mounted onto the subject wall.

* * *

Sign Regulations:

~~Onsite signs only shall be permitted in these districts; subject to the following requirements and limitations. Except as otherwise provided, such signs may be illuminated but shall not be animated or flashing. At retail or service establishments, in addition to identifying the principal business, commodity or service, such signs may~~

~~devote not more than half of their actual aggregate to the advertising of subsidiary products sold or services rendered on the premises:~~

~~1. Community or neighborhood bulletin boards or kiosks shall be permissible as provided at section 925.3.10:~~

~~2. Construction signs; not be {to} exceed one (1) construction sign or thirty (30) square feet in area, for each lot line adjacent to a street:~~

~~3. Development signs, except where combined with construction signs, shall be permissible only by Class I Special Permit as provided at section 925.3.8:~~

~~4. Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas, but shall not exceed five (5) square feet in surface area:~~

~~5. Ground or freestanding signs, limited to one (1) sign structure with not to exceed two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each fifty (50) feet of street frontage. Permitted sign area shall be cumulative, but no sign surface shall exceed one hundred (100) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the zoning administrator at his discretion may increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions:~~

~~6. Marquee signs, limited to one (1) per establishment and three (3) square feet in area:~~

~~7. Projecting signs (other than marquee signs) shall be limited to one (1) sign structure with not to exceed two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area; provided, however, that such permissible sign area shall be increased in C-1 districts to eighty (80) square feet where maximum projection from the face of the building is two (2) feet or less, sixty (60) square feet where projection is more than two (2) and less than three (3) feet, and forty (40) square feet where projection is at least three (3), but not more than four (4) feet.~~

~~8. Real estate signs, limited to one (1) per street frontage and not to exceed half the area permissible for the same type of permanent sign on the premises.~~

~~9. Temporary civic and political campaign signs are allowed, subject to the exceptions, limitations and responsibilities of subsections 925.3.11, 925.3.12 and 925.3.13 respectively.~~

~~10. Wall signs, limited to two and one half (2½) square feet of sign area for each lineal foot of wall fronting on a street if any portion of such sign is below fifteen (15) feet above grade. For each foot that the lowest portion of such sign exceeds fifteen (15) feet, permitted sign area shall be increased one (1) percent. Not more than three (3) such signs shall be permitted for each frontage on which area calculations are based, but one (1) of these may be mounted on a side wall.~~

~~11. Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.~~

See Article 10 for sign regulations and limitations.

C-2 Liberal Commercial.

* * *

Conditional Principal uses:

* * *

Outdoor advertising businesses subject to limitations and restrictions as set forth in Section 10.8.3.

* * *

Conditional accessory uses:

Outdoor advertising businesses shall be permissible as an accessory use to principal commercial uses only, subject to a Class II Special Permit and further limited as follows:

- a. Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;
- b. Signs shall be limited to one sign per structure only;
- c. Sign area shall be limited to no greater than thirty-two (32) square feet;
- d. Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused from the total permissible wall sign area for the structure in question; see Article 10 for specific sign regulations and method of calculations; and
- e. Such signs may either be painted or mounted onto the subject wall.

* * *

Sign Regulations:

~~Signs, illuminated or nonilluminated, flashing or nonflashing, or animated (except as otherwise provided) are permitted as accessory uses and, in the case of offsite signs (including those in connection with the outdoor advertising business), as principal uses, subject to the provisions of sections 925 and 926 and the following requirements and limitations. Onsite signs shall be limited as to subject matter as for C-1:~~

~~Signs shall be permitted as for C-1 except:~~

- ~~1. Wall signs, onsite, limited to three and one half ($3\frac{1}{2}$) square feet of sign area for each lineal foot of wall fronting on a street if any portion of such sign is below fifteen (15) feet above grade. For each foot that the lowest portion of such sign exceeds twenty-five (25) feet, permitted sign area shall be increased one (1) percent up to a maximum height of fifty (50) feet above grade. Not to exceed three (3) such signs shall be permitted for each frontage on which area calculations are based, but one (1) of these may be mounted on a side wall.~~
- ~~2. Window signs, with same limitations as C-1, except they shall be onsite signs and shall be nonilluminated.~~
- ~~3. Projecting signs, with same limitations as C-1, except they shall be limited to onsite signs.~~
- ~~4. Marquee signs, with same limitations as C-1, except they shall be onsite signs.~~
- ~~5. Ground or freestanding signs, onsite, shall be limited to one (1) sign and forty (40) square feet of sign area (for each face) for each business, or for each fifty (50) feet of street frontage, whichever shall yield the largest area.~~

~~Permitted sign area may be used in less than the maximum permitted number of such signs, but no sign shall exceed two hundred (200) square feet in area for each face. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the zoning administrator, at his discretion, may increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.~~

~~6.—Directional signs, with same limitations as C-1, except they shall not exceed ten (10) square feet in surface area.~~

~~And in addition:~~

~~1.—Wall signs, offsite, limited in location to side walls of buildings, limited in area as for wall signs, onsite, above, and to be included as part of total permitted wall sign area rather than in addition to onsite wall signs, and limited to one (1) sign on any premises. No offsite wall sign shall be permitted on the same wall with an onsite wall sign. (See sections 926.10 through 926.15 also.)~~

~~2.—Ground or freestanding signs, offsite, shall be limited to two (2) for any lot, whether or not occupied by a building. The area shall not exceed seven hundred fifty (750) square feet for each surface, including embellishments. The total height shall not exceed thirty (30) feet, except as set forth in section 926.15.2, including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways; provided, however, that the zoning administrator, at his discretion, may increase the measurement of the crown by up to five (5) feet to accommodate unusual or~~

~~undulating site conditions. (See sections 926.3, 926.10 through 926.15 also.)~~

~~3. Signs, onsite, above a height of fifty (50) feet above grade, shall be subject to the requirements and limitations of section 926.16.~~

See Article 10 for sign regulations and limitations.

CBD Central Business District Commercial.

* * *

Conditional accessory uses:

Outdoor advertising businesses shall be permissible as an accessory use to principal commercial uses only, subject to a Class II Special Permit and further limited as follows:

- a. Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;
- b. Signs shall be limited to one sign per structure only;
- c. Sign area shall be limited to no greater than thirty-two (32) square feet;
- d. Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused from the total permissible wall sign area for the structure in question; see Article 10 for specific sign regulations and method of calculations and
- e. Such signs may either be painted or mounted onto the subject wall.

* * *

Sign Regulations:

As permitted below:

~~Onsite signs only shall be permitted in these districts, subject to the following requirements and limitations: Except as otherwise provided, such signs may be illuminated but shall not be animated or flashing. At retail or service establishments, in addition to identifying the principal business, commodity or service, such signs may devote not more than half of their actual aggregate to the advertising of subsidiary products sold or services rendered on the premises:~~

~~1. Community or neighborhood bulletin boards or kiosks shall be permissible as provided at section 925.3.10:~~

~~2. Construction signs; not be exceed one (1) construction sign or thirty (30) square feet in area, for each lot line adjacent to a street:~~

~~3. Development signs except where combined with construction signs, shall be permissible only by Class I Special Permit as provided at section 925.3.8:~~

~~4. Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas, but shall not exceed five (5) square feet in surface area:~~

~~5. Ground or freestanding signs, limited to one (1) sign structure with not to exceed two (2) sign surfaces per parallel street frontage, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each fifty (50) feet of street frontage. Permitted sign area shall be cumulative, but no sign surface shall exceed eighty (80) square feet. Maximum height limitation shall~~

~~be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the zoning administrator at his/her discretion may increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions:~~

~~6. Marquee, awning and canopy signs, limited to one (1) per establishment and three (3) square feet in area:~~

~~7. Projecting signs (other than marquee signs) shall be limited to one (1) sign structure with not to exceed two (2) sign surfaces, neither of which shall exceed twenty-five (25) square feet in sign area:~~

~~8. Real estate signs, limited to one (1) per street frontage and not to exceed half the area permissible for the same type of permanent sign on the premises:~~

~~9. Temporary civic and political campaign signs are allowed, subject to the exceptions, limitations and responsibilities of subsections 925.3.11, 925.3.12 and 925.3.13 respectively:~~

~~10. Wall signs, limited to two (2) square feet of sign area for each lineal foot of wall fronting on a street if any portion of such sign is below fifteen (15) feet above grade. For each foot that the lowest portion of such sign exceeds fifteen (15) feet, permitted sign area shall be increased one (1) percent. Not more than three (3) such signs shall be permitted for each frontage on which area calculations are based, but one (1) of these may be mounted on a side wall:~~

~~11. Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in~~

~~which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.~~

See Article 10 for sign regulations and limitations.

I Industrial.

* * *

Conditional Principal uses:

* * *

Outdoor advertising businesses subject to limitations and restrictions as set forth in Section 10.8.3.

* * *

Conditional accessory uses:

Outdoor advertising businesses shall be permissible as an accessory use to principal commercial uses only, subject to a Class II Special Permit and further limited as follows:

- a. Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;
- b. Signs shall be limited to one sign per structure only;
- c. Sign area shall be limited to no greater than thirty-two (32) square feet;
- d. Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused from the total permissible wall sign area for the structure in question; see Article 10 for specific sign regulations and method of calculations and

e. Such signs may either be painted or mounted onto the subject wall.

* * *

Sign Regulations:

~~same as for C2.~~

See Article 10 for sign regulations and limitations.

RT Fixed-Guideway Rapid Transit System Development District.

This zoning district is authorized by the Board of County Commissioners of Metropolitan Dade County by County Ordinance No. 78-74, adopted October 17, 1978, as amended (the latest text of the Metropolitan Dade County Code should be consulted), ~~and is included here by reference as follows:~~

All development within the RT Fixed-Guideway Rapid Transit System Development Districts shall conform with applicable Sections of the Code of Metropolitan Dade County, Florida, as amended.

~~Sec. 33C 1. Legislative intent, findings and purposes:~~

~~The board of county commissioners for Metropolitan Dade County, Florida, hereby declares and finds that the uncoordinated use of lands within the county threatens the orderly development and the health, safety, order, convenience, prosperity and welfare of the present and future citizens of this county. Pursuant to Ordinance No. 75-22, the board adopted and accepted the Comprehensive Development Master Plan for Metropolitan Dade County whereby it specifically declared that it was the continuing policy of Metropolitan Dade County, in cooperation with~~

~~federal, state, regional and local governments, and other concerned public and private organizations, to use all reasonable means and measures to:~~

- ~~(a) Foster and promote the general welfare;~~
- ~~(b) Create and maintain conditions under which man and nature can exist in productive harmony; and~~
- ~~(c) Fill the social, economic and other requirements of the present and future generations of citizens of Metropolitan Dade County, Florida.~~

~~The board further found that the Comprehensive Development Master Plan was enacted to assure for all people of Dade County an attempt to create safe, healthful, productive and aesthetically and culturally pleasing surroundings; to attain the widest range of beneficial uses of the environment without unreasonable degradation, risk to the health or safety, or other undesirable and unintended consequences; to preserve important historic, cultural and natural aspects of our national heritage; to maintain, wherever possible, an environment which supports diversity and variety of individual choice; to achieve a balance between population and resources which will permit the high standards of living and a wide sharing of life's amenities; and to enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources. In furtherance of these goals and objectives, the board finds that the coordinated review and analysis of its mass transit facilities are necessary to carry on a central metropolitan government in Dade County, Florida. Coordinated review and analysis of the mass transit system are susceptible to, and would be most effectively carried on, under a uniform plan of regulation applicable to the county as a whole. The planning of major~~

transportation facilities, combined with other plan implementation tools, can be effectively used in meeting social, economic and environmental needs and in creating a major influence on metropolitan development patterns and life styles. The capability of a transportation network, acting in conjunction with other urban services to establish general development trends, is well recognized. A maximum coordination of transportation and land use policy decisions is therefore essential to optimize the role of transportation as a potent tool for implementing the desired patterns of metropolitan development.

The board further finds that the Stage I Fixed Guideway Rapid Transit System has, since 1973, undergone extensive planning, review, analysis, and engineering design efforts. The Stage I system has received design approval from both the federal and state governments and is in the process of final design, procurement and construction activities. The Stage I system, including proposed improvements in other forms of surface transportation facilities, represents a concerted, coordinated effort to improve not only the transportation facilities within Dade County, but the overall quality of life enjoyed by citizens of and visitors to Dade County. Finally, the Stage I system represents one of the largest public works projects ever undertaken in Dade County and the Southeastern United States. As such, the Stage I Fixed Guideway Rapid Transit System may only be planned, engineered, implemented, and administered on a countywide basis, in a manner which will:

(a) Provide maximum opportunities for development to serve as financial assistance to the system; and

~~(b) Provide incentives for joint development with the private sector.~~

~~Sec. 33C 2. Rapid transit zone:~~

~~(A) Definition. The "rapid transit zone" consists of all land area, including surface, subsurface, and appurtenant airspace, heretofore or hereafter designated by the board of county commissioners as necessary for the construction of the fixed guideway portion of the Stage I Rapid Transit System, including all station cites, parking areas and yard and maintenance shop facilities.~~

~~(B) Designation of Lands Included. The board of county commissioners hereby designates all land areas (including surface, subsurface, and appurtenant airspace) shown on Exhibits 1 through 16, bearing the following effective dates: Exhibits 1 through 9 and Exhibits 11 through 16, July 13, 1970, and Exhibit 10, May 26, 1983, certified by the clerk of the board as a portion of this chapter, incorporated hereby by reference, and transmitted to the custody of the building and zoning department, as the rapid transit zone for the Stage I Fixed Guideway Rapid Transit System. The director of the Dade County Building and Zoning Department shall submit to each affected municipality an official map or maps designating the rapid transit zone which may from time to time be altered, enlarged, added to, amended or deleted by ordinance, after a public hearing within each municipality affected.~~

~~(C) Jurisdiction of County: Jurisdiction for purposes of building and zoning approvals (including, but not limited to site plan approvals, issuance of building permits, building inspections, compliance with the South Florida Building Code, issuance of certificates of occupancy, zoning applications, Special Exceptions, variances, district~~

~~boundary changes, building and/or zoning moratoria, and all other types of functions typically performed by building and/or zoning departments), water and sewer installations, compliance with environmental regulations, street maintenance (including sidewalks where applicable) and utility regulation, all of which relate to the uses specifically delineated in subsection (D) below, shall be and are hereby vested in Metropolitan Dade County regardless of any municipal code, charter, or ordinance provisions to the contrary:~~

~~(D) Permitted Land Uses. The following land uses are permitted within the rapid transit zone and no others:~~

~~(1) Fixed guideways for the rapid transit system:~~

~~(2) Stations for the rapid transit system, including such uses as passenger platforms and waiting areas, ticket and information booths, restrooms, utility rooms, instation advertising displays, stairs, elevators, walkways, and other similar uses as are necessary for the proper functioning of a rapid transit station:~~

~~(3) Parking lots and parking structures:~~

~~(4) Bus stops and shelters:~~

~~(5) Streets and sidewalks:~~

~~(6) Maintenance facilities for the rapid transit system, including yard and shops, and associated tracks and facilities:~~

~~(7) Landscaping:~~

~~(8) Bikeways, parks, community gardening, playgrounds, power substations and other uses necessary for~~

~~the construction, operation and maintenance of the rapid transit system:~~

~~(9)(a) Such other uses, including commercial, office and residential uses, as may be appropriate to and compatible with the operation of the rapid transit system and the convenience of the ridership thereof:~~

~~(b) Subzones; development regulations, standards and criteria. In the unincorporated areas of the rapid transit zone, subzones shall be created by separate ordinances which shall become part of this chapter. Said ordinances shall identify the boundaries of the individual subzones and shall establish development regulations and site plan review standards and criteria for those land uses permitted pursuant to subsection (9)(a) herein and approved pursuant to subsection (9)(c) herein:~~

~~(c) Requests for approval of development of those land uses permitted pursuant to subsection (9)(a) herein within a subzone created pursuant to subsection (9)(a) herein shall be made by filing an application in accordance with the provisions of section 33-304. Said application shall be considered a Special Exception for site plan approval to be considered and acted upon directly by the board of county commissioners pursuant to the criteria established in section 33-311(d) and the provisions of the applicable subzone:~~

~~(d) Whenever uses authorized by subparagraph (a) above are proposed within portions of the rapid transit zone passing through municipalities, the station area design and development program process, a joint municipal county program, shall prepare proposed master plan development standards for such proposed uses. Such proposed master plan development standards shall be~~

~~submitted to the appropriate municipality for review and adoption as the master land use plan for such uses. Once adopted, said land use plans shall control all public actions involving or affecting land use or development, including action on applications for zoning relief. Amendments to said master land use plans shall be subject to the procedures specified in this subparagraph. It shall be the duty of the clerk of the board of county commissioners to immediately transmit to the relevant municipality, a certified copy of the county commission's action in regard to the uses provided for in this subsection. The municipality may seek judicial review of the county commission's action in accordance with section 33-316, Dade County Code.~~

~~(c) The uses provided in this subsection shall, where applicable, be subject to municipal ordinance relating to occupational license taxes, and such taxes be and they are hereby expressly reserved to such municipalities.~~

~~(E) Effect on Existing Land Uses. All land areas included by this section within the rapid transit zone upon which uses other than those specified in subsection (D) of this section were authorized or permitted prior to the effective date of this section may be used as follows:~~

~~(1) Existing structures. All existing buildings or structures and all uses for which building permits have already been issued prior to the effective date of this article and which have complied with the applicable provisions of the South Florida Building Code may be continued or constructed in accordance with the approved plans and specifications therefor. Alterations, improvements, or expansions of existing structures shall be subject to the provisions of paragraph (2) hereof.~~

~~(2) All other lands. No applications for site or plan approvals and/or building permits shall be issued for new facilities within the rapid transit zone except in the following circumstances:~~

~~(a) The estimated construction cost does not exceed ten thousand dollars (\$10,000.00) in any consecutive two-year period; or~~

~~(b) The office of transportation administration certifies that approval of the application will not have an adverse impact upon a material element of the Stage I system. The office of transportation administration shall, with respect to any application for which certification is refused, provide a detailed written explanation supporting the refusal to certify and specifying the correction actions, if any which would lead to certification. The decision of the office of transportation administration may be appealed to the board of county commissioners within thirty (30) days from the date of the written explanation by filing a notice of appeal with the clerk of the board of county commissioners. The board of county commissioners, after giving public notice as required by Chapter 33 of the Code, shall hear the appeal and either affirm, deny or modify the decision of the office of transportation administration. Appeals from the land of county commissioners' action shall be in accordance with section 33-316 of this Code.~~

~~Sec. 33C-3. Rapid transit developmental impact committee.~~

~~There is hereby established a rapid transit developmental impact committee composed of the county's developmental impact committee (established by section 33-303.1, Dade County Code) and two (2) representatives from each of the following municipalities: City of South Miami, City of~~

~~Coral Gables, City of Miami, and the City of Hialeah. The rapid transit developmental impact committee shall, subject to the procedures specified in action 33-303.1, Dade County Code, perform the duties specified in section 33C-4 of this chapter.~~

~~Sec. 33C-4. Rapid transit developmental impact zone:~~

~~The rapid transit developmental impact zone consists of those lands in such close proximity to the rapid transit system as to have a significant impact thereon. The station area design and development program (authorized by Dade County Resolution No. R 829-77), a joint municipal county program, shall prepare proposed development standards for the rapid transit developmental impact zone. Such proposed development standards shall be submitted to the rapid transit developmental impact committee established by section 33C-3 of this chapter for review, comment and any recommendations. The rapid transit developmental impact committee report, including the proposed development standards, shall be submitted to the appropriate municipality or, in the unincorporated areas, to the county for review and adoption as the land use plan for developments within the rapid transit developmental impact zone. Once adopted, said land use plans shall control all public actions involving or affecting land use or development, including action on applications for zoning relief, within the rapid transit developmental impact zone. Amendments to said land use plans shall be subject to the procedure specified in this section. The county may seek judicial review of any official municipal acts relating to lands within the rapid transit developmental impact zone.~~

~~Sec. 33C-5. Guideway aesthetic zone:~~

~~Definition: The guideway aesthetic zone consists of those land areas designated by the board of county commissioners which are adjacent to or within the rapid transit development impact zone. Said lands [include those land areas which] are within the line of sight of the rapid transit system fixed guideways and stations and upon which any developments and/or structures (specifically including billboards) will deleteriously affect the aesthetic impact of the rapid transit system:~~

~~DIVISION 6. COMMERCIAL SIGNS ON RAPID TRANSIT SYSTEM RIGHT OF WAY~~

~~Sec. 33-121.20 Definitions:~~

~~(a) Rapid transit system right of way shall mean an official map designating outside boundaries for the fixed guideway rapid transit system for Dade County, Florida, which may from time to time be amended. The rapid transit system right of way map shall be so designated and recorded and on file in the public records of Dade County, Florida:~~

~~(b) Applicable regulations shall mean any pertinent zoning, building or other regulations in effect in the incorporated or unincorporated areas of Dade County or the State of Florida:~~

~~(c) Protected areas shall mean all property in Dade County within three hundred (300) feet of the right of way of any rapid transit system right of way:~~

~~(d) Sign shall mean any display of characters, letters, illustrations or any ornamentation designed or used as an advertisement, announcement or to indicate direction:~~

~~(e) Erect shall mean to construct, build, rebuild (if more than fifty (50) percent of the structural members involved), relocate, raise, assemble, place, affix, attach, paint, draw, or in any other manner bring into being or establish.~~

~~(f) Temporary sign shall mean signs to be erected on a temporary basis, such as signs advertising the sale or rental of the premises on which located; signs advertising a subdivision of property; signs advertising construction actually being done on premises on which the sign is located; signs advertising future construction to be done on the premises on which located and special events, such as public meetings, sporting events, political campaigns or events of a similar nature.~~

~~(g) Point of sale sign shall mean any sign advertising or designating the use, occupant of the premises, or merchandise or products sold on the premises.~~

~~(h) Outdoor advertising sign shall mean any sign which is used for any purpose other than that of advertising to the public the legal or exact firm name or type of business conducted on the premises, or of products or merchandise sold on the premises; or which is designed and displayed to offer for sale or rent the premises on which displayed, or the subdivision of such premises, or present or future construction or development of such premises, or advertising special events, and which shall constitute an outdoor advertising sign. Outdoor advertising sign shall not include a sign which is erected inside a building for the purpose of serving the person within the building.~~

~~Sec. 33-121.21. Applicability.~~

~~This division shall apply to both the incorporated and unincorporated area. Any municipality may establish and enforce equivalent or more restrictive regulations, as such municipality may deem necessary.~~

~~Sec. 33-121.22. Signs prohibited in protected areas.~~

~~It shall be unlawful hereafter for any person, firm or corporation, or any other legal entity, to erect, permit or maintain any sign in protected areas, except as provided for hereinafter.~~

~~Sec. 33-121.23. Exceptions to sign prohibition.~~

~~Erection of the following signs shall be permitted in protected areas, subject to the conditions and limitations listed herein and further subject to other applicable regulations where such regulations are more restrictive or more definitive than the provisions of this division and are not inconsistent therewith:~~

~~(a) Temporary signs which are located and oriented to serve streets other than a rapid transit system, and are located at least one hundred (100) feet from the rapid transit system right of way, except that such signs may serve and be oriented to a rapid transit system if the property concerned abuts the rapid transit system right of way and is not served by a parallel rapid transit system service road or is abutting the rapid transit system right of way and has direct, permanent legal access to the rapid transit system. In no event shall any temporary sign be larger than one hundred twenty (120) square feet.~~

~~(b) Point of sale signs which are located on and oriented to the frontage on the street which provides actual and~~

~~direct access to the front or principal entrance of the place of business; however, on corner lots a second detached point of sale sign will be permitted provided that the same is not larger than forty (40) square feet, is located on and oriented to the street frontage of the street other than the one serving the principal entrance of the place of business. "Oriented," in connection with point of sale signs, shall mean, in the case of detached signs, placed at a ninety degree angle to the street being served; in the case of roof signs, parallel to and fronting such street and within the front twenty five (25) percent of the building concerned; and in the case of pylon signs, within the front twenty (20) percent of the building concerned. Wall signs within two hundred (200) feet of a rapid transit system shall be confined to the wall of the building containing the principal entrance, except that a wall sign may be placed on one other wall of such building and shall be limited to ten (10) percent of such other wall area. In no event shall any detached point of sale roof sign be erected which is greater in height above the roof than ten (10) feet.~~

~~(c) Outdoor advertising signs shall not be erected for the purpose of serving any rapid transit system, and outdoor advertising signs in protected areas shall be erected and oriented to serve only streets other than rapid transit systems, subject to the following conditions:~~

~~(1) That in no event shall any outdoor advertising sign be erected or placed closer than three hundred (300) feet to the right of way lines of any rapid transit system.~~

~~(2) That outdoor advertising signs shall be erected and placed only in business and commercial (not including~~

~~industrial) zoning districts which permit outdoor advertising under the applicable zoning regulations of the county or municipality having jurisdiction:~~

~~(2) That no outdoor advertising sign shall be erected that is larger than fifteen (15) feet in width and fifty (50) feet in length, whether single or multiple boards:~~

~~(4) That no detached outdoor advertising sign shall be erected which is more than twenty-five (25) feet above the average existing grade of the site on which such sign is erected or the flood criteria elevation (if property is filled to such elevation), whichever is the greater; nor shall an outdoor advertising roof sign be erected which is more than twenty (20) feet above the roof:~~

~~(5) That no advertising signs shall be erected or placed within three hundred (300) feet of another outdoor advertising sign, such distance to be measured in all directions from the outermost edges of such sign:~~

~~(6) That no outdoor advertising sign shall be erected or placed within one hundred (100) feet of any church, school, cemetery, public park, public reservation, public playground, state or national forest:~~

~~(7) That outdoor advertising signs shall be erected and placed at right angles to the street which they are serving and shall be located within the front seventy (70) feet of the lot or tract on which erected:~~

~~(8) That no outdoor advertising signs shall be erected or placed on a street dead ended by the rapid transit system, between the rapid transit system and the first street running parallel to the rapid transit system and on the same side of the dead end street, even though such distance may be greater than three hundred (300) feet:~~

~~(9) That outdoor advertising signs shall be erected and placed only on property conforming in size and frontage to the requirements of the zoning district in which it is located, and detached outdoor advertising signs shall not be erected on property already containing a use or structure.~~

~~(10) That detached outdoor advertising sign structures shall be of the so-called cantilever type construction (double-faced sign, both faces of the same size, secured back to back on vertical supports with no supporting bracing).~~

~~(d) Any sign which fails to conform with the provisions of this division but is not visible from any rapid transit system due to an intervening obstruction.~~

~~Sec. 33-121.24. Nonconforming signs.~~

~~(a) Signs which have been erected prior to the effective date of this division may continue to be maintained until January 1, 1984. Thereafter, unless such signs conform to the provisions of this division, they shall be removed. If a nonconforming spacing situation can be eliminated by the removal of one (1) sign, the sign which has been erected for the longest period of time shall have priority.~~

~~(b) [If] any sign [be] legally erected, permitted or maintained subsequent to the effective date of this division, which is not in violation of this division but upon the opening for public use of a rapid transit system or applicable portion thereof becomes nonconforming, the same may continue to be maintained for a period of three (3) years from the day of such opening, provided on or before the expiration of the three year period, the nonconforming sign must be removed; provided any sign which is exempt~~

~~from the provisions of this division pursuant to (d) of section 33-121.23 hereof, but subsequently becomes nonconforming due to the elimination of the obstruction preventing its visibility from a rapid transit system, must be removed within three (3) years from the time of the elimination of such obstruction; further provided, after the effective date of this amendment any sign erected, permitted or maintained after a future rapid transit system right-of-way has been designated by the recording of a rapid transit system right of way map in the public records of Dade County, Florida, which becomes nonconforming due to the completion of such rapid transit system shall be removed within thirty (30) days after such rapid transit system or applicable portion thereof is opened for public use.~~

~~Sec. 33-121.25. Variances:~~

~~No variances shall be granted through provisions of applicable regulations which will in any way conflict with or vary the provisions of this article.~~

~~Sec. 33-121.26. Penalty; injunctive remedy.~~

~~Any person violating any of the provisions of this division shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail for a period not to exceed sixty (60) days, or by both such fine and imprisonment, in the discretion of the metropolitan court. Any continuing violations of the provisions of this division may be enjoined and restrained by injunctive order of the circuit court in appropriate proceedings instituted for such purpose.~~

Sec. 33-121.27. ~~Repeal clause:~~

~~All county and municipal ordinances, county and municipal resolutions, municipal charters, special laws applying only to Dade County or any municipality in Dade County, or any general laws which the board of county commissioners is authorized by the constitution to supersede, nullify, modify or amend, or any part of such ordinance, resolution, charter or law in conflict with any provision of this division, are hereby repealed:~~

* * *

ARTICLE 5. PLANNED UNIT DEVELOPMENT

* * *

~~504.2.1. Limitations on signs. Signs for purposes of identification only shall be limited to one (1), not exceeding ten (10) square feet in surface area. Signs should respect the architecture of the building and be placed subordnately and harmoniously to the structure. Not more than one (1) sign shall be permitted. Where more than one (1) such establishment is located in the same building or on the same premises, signs as above shall be permitted for each not to exceed ten (10) square feet in area. No such sign shall extend above or more than six (6) inches beyond the wall of the building.~~

See Article 10 for sign regulations as for the underlying district in which the PUD is located.

* * *

~~Sec. 507. Signs visible from outside PUD in residential districts. Reserved.~~

~~A maximum of two (2) identification signs may be erected within such districts with total combined maximum surface area of fifty (50) square feet, at each principal entrance:~~

~~In addition, during the process of construction and initial sale or rental within such development, temporary announcement signs may be allowed by Class I Special Permit only, for periods not exceeding one (1) year, and renewable for one year terms for not to exceed two (2) additional years:~~

~~Such temporary signs shall not exceed two (2) with combined maximum surface area of forty (40) square feet for each principal entrance. Such signs shall be located at least ten (10) feet in from any property line, and oriented for minimum adverse effects on adjoining or facing residential property. Location shall be further governed by requirements for vision clearance at intersections as set out at section 908.11.~~

~~507.1. Signs limitations at PD mixed use districts. Limitations on signs shall be as for C-1 Restricted Commercial Districts except as provided below:~~

~~1. In addition to signs permitted or conditional under C-1 regulations, one (1) sign structure, not exceeding thirty-five (35) feet in height and having not more than two (2) sign surfaces, may be erected along each principal street frontage from which there is a major entrance, to identify the development as a whole. Such signs may indicate the establishments, activities, and facilities within the development, but shall not include other advertising. Each such~~

~~sign surface may have a minimum area of forty (40) square feet, plus one (1) square foot for each two and one half (2 1/2) feet by which the frontage involved exceeds one hundred (100) feet, up to a maximum of one hundred (100) square feet per surface.~~

ARTICLE 6. SD SPECIAL DISTRICTS GENERAL PROVISIONS

* * *

Sec. 601. SD-1 Martin Luther King Boulevard Commercial District.

* * *

Conditional Principal uses:

* * *

Outdoor advertising businesses subject to limitations and restrictions as set forth in Section 10.8.3.

* * *

Conditional accessory uses:

Outdoor advertising businesses shall be permissible as an accessory use to principal commercial uses only, subject to a Class II Special Permit and further limited as follows:

- a. Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;
- b. Signs shall be limited to one sign per structure only;
- c. Sign area shall be limited to no greater than thirty-two (32) square feet;

d. Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused from the total permissible wall sign area for the structure in question; see Article 10 for specific sign regulations and method of calculations and

e. Such signs may either be painted or mounted onto the subject wall.

* * *

Sec. 601.11. Limitations on signs.

See Article 10 for sign regulations and limitations.

* * *

Sec. 602. SD-2 Coconut Grove Central Commercial District.

* * *

Sec. 602.11. Limitations on signs.

~~No signs intended to be read from off the premises shall be erected except as provided below:~~

~~602.11.1. General limitations:~~

~~602.11.1.1. Prohibited signs. Billboards, poster panels, ground or freestanding signs and other outdoor advertising signs shall be prohibited in this district. Other offsite signs shall be prohibited except for temporary civic and political campaign signs or except when signs are posted on community or neighborhood bulletin boards or kiosks, in accordance with limitations and regulations relating thereto at section 925.3.10 and those applied in special permit proceedings on particular community or neighborhood bulletin boards or kiosks.~~

~~602.11.1.2. Signs more than fifteen feet above grade, limitations on number, area, subject matter. Signs erected with their lowest portions more than fifteen (15) feet above grade shall be limited to those identifying the building and the nature of the establishments it contains. Only one (1) such sign, not exceeding fifty (50) square feet in area, for every one hundred fifty (150) feet of length of building wall shall be permitted for each face of the building oriented toward the street.~~

~~602.11.1.3. Signs fifteen feet or less above grade, limitations on number and area. Wall signs (not including signs in glassed areas of windows or doors) and projecting signs erected with their highest portion fifteen (15) feet or less above grade shall be limited in total area to twenty (20) square feet, except as otherwise specifically provided herein. Signs in the glassed areas of windows and doors shall not exceed twenty (20) percent of the glassed area of the window or door involved. One (1) ground sign, limited to ten (10) square feet in area, may be erected for buildings on lots where the street yard exceeds twenty (20) feet in depth.~~

~~602.11.2. Detailed limitations, wall signs, projecting signs, marquee signs, window signs.~~

~~Within the twenty (20) square feet maximum allowable at or below fifteen (15) feet above grade, the following limitations shall apply to number and area of signs. Not more than one (1) wall sign may be erected per establishment, and maximum area of any such sign shall be twenty (20) square feet. Not more than one (1) projecting sign, other than a marquee sign, shall be erected, with not to exceed two (2) sign surfaces, neither of which shall exceed ten (10) square feet in area. No such sign structure shall extend~~

~~more than three (3) feet from the wall of the building. Marquee signs shall be limited to one (1) per establishment and three (3) square feet in sign area.~~

~~602.11.3. Real estate signs, construction signs, development signs, number and area.~~

~~Real estate, construction or development signs, individually or in combination, shall be limited to one (1) per street frontage, not exceeding ten (10) square feet in area, and erected with the highest portion fifteen (15) feet or less above grade. Real estate signs which are not part of construction or development signs shall not require a special permit.~~

~~602.11.4. Directional signs, number and area.~~

~~Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.~~

~~Notwithstanding the provisions set forth in section 602.11.1.1, where there are commercial, service or retail uses in a structure which may not be seen directly from the public right-of-way, but have direct access from a courtyard or open space which abuts a primary pedestrian pathway, a free standing directional sign containing the names of all the establishments concealed from direct view may be erected which may be combined with a location map of the complex. Not more than one (1) such sign, not exceeding twenty (20) square feet in area, shall be erected per entrance, exit, or parking area.~~

~~602.11.5. Community or neighborhood bulletin boards or kiosks, area and location:~~

~~Area and location of community or neighborhood bulletin boards or kiosks shall be determined at the time of special permit proceeding.~~

~~602.11.6. Additional wall signs for theaters, museums, noncommercial art galleries:~~

~~In addition to signs permitted above, theaters, museums, noncommercial art galleries and the like may have wall sign areas for display of announcements concerning coming or current exhibits or performances. Area of such display surfaces shall not exceed two (2) square feet for each lineal foot of building wall frontage on a street, with maximum permitted area two hundred (200) square feet.~~

~~602.11.7. Special permit requirements, specified types of signs:~~

~~Except where such signs are approved in connection with general special permit actions concerning development on the premises, a Class II Special Permit shall be required for the following signs: Permanent window or door signs, projecting signs, marquee signs, development signs, construction signs, directional signs, community or neighborhood bulletin boards or kiosks, and wall sign display areas for theaters, museums, noncommercial art galleries and the like.~~

See Article 10 for sign regulations and limitations.

App. 245

Sec. 603. SD-3 Coconut Grove Major Streets Overlay District.

* * *

Sec 603.10. Limitations on signs.

See Article 10 for sign regulations and limitations.

Sec. 604. SD-4 Waterfront Industrial District.

* * *

Sec. 604.11. Limitations on signs.

~~Sign limitations shall be as provided for C-1 districts.~~

See Article 10 for sign regulations and limitations.

Sec. 605. SD-5 Brickell Avenue Area Office-Residential District.

* * *

Sec. 605.11. Limitations on signs.

~~Sign limitations shall be as provided for C-1 districts.~~

See Article 10 for sign regulations and limitations.

Sec. 606. SD-6, SD-6.1 Central Commercial Residential Districts.

* * *

606.3.2. Considerations in making Class II Special Permit determinations.

The purpose of the Class II Special Permit shall be to ensure conformity of the application with the expressed intent of these districts, with the general considerations listed in section 1305 of the zoning ordinance, and with the special considerations listed below. In making determinations concerning construction of new principal

buildings or substantial exterior alteration of existing principal buildings, the planning director shall obtain the advice and recommendations of the Urban Development Review Board.

* * *

6. Offstreet parking and loading shall generally be within enclosed structures which shall either be underground, or if aboveground, shall be designed to provide a minimal visual impact, well integrated with the principal structures. Unenclosed vehicular parking and loading in any location visible from a public street shall be appropriately screened from exterior views.

~~7. Each development abutting Biscayne Boulevard shall have one (1) or more animated objects such as fountains, kinetic sculpture, animated illuminated signs, banners, or similar forms of moving images that are visible during day and night.~~

8. 7. Where proposed, arcades shall be continuous with a minimum length of one hundred (100) feet adjacent to the required yard and fronting on public sidewalk and street. The floor of the arcade shall be at the same level as the public sidewalk. Arcades shall have a minimum width of eight (8) feet unobstructed by building columns, utilities and the like. Arcades shall be accessible to the public at all times.

9. 8. In order to promote a lively and safe pedestrian environment at street level, elevated pedestrian walkways spanning public streets shall be strongly discouraged, except on N.E. 13th, 14th, 15th, and 16th Terraces. Elevated walkways may be permitted in special circumstances such as to provide a direct connection to a Metromover station or to connect buildings occupied by a single business or public agency.

* * *

Sec. 606.11 Limitations on signs.

~~—Sign limitations shall be as provided for the C-1 district with the following exceptions and modification:~~

~~1. Signs, flashing, animated, revolving, whirling, banners, pennants or streamers shall be permitted:~~

~~2. Offsite signs shall be permitted, subject to the following conditions: Maximum one (1) per street frontage, maximum four hundred (400) square feet of surface area per sign and all such offsite signs shall be designed to exhibit continuously changing displays of figures, words or graphics through the use of lights, projected images or luminous character generators. Temporary civic and political campaign signs limited to four hundred (400) square feet of surface area are allowed. Offsite signs above a height of fifty (50) feet above grade shall be subject to the provisions of section 926.16, as appropriate and where those provisions are more limiting.~~

~~3. Projecting signs (other than marquee signs) shall be limited to one hundred twenty (120) square feet for each sign surface.~~

~~4. Ground or freestanding signs shall be limited to directional signs and temporary civic and political campaign signs.~~

~~5. Kiosk advertising shall be limited to the announcement of events, exhibits, entertainment, and cultural events.~~

See Article 10 for sign regulations and limitations.

Sec. 607. SD-7 Central Brickell Rapid Transit Commercial-Residential District.

Sec. 607.11 Limitations on signs.

~~Sign limitations shall be as provided in section 602.11, recognizing the size limitations thereof, provided further that onsite signs above a height of fifty (50) feet above grade shall be subject to the provisions of section 926.16.~~

See Article 10 for sign regulations and limitations.

Sec. 608. SD-8 Design Plaza Commercial-Residential District.

* * *

Sec. 608.11. Limitations on signs.

~~Limitations on signs shall be as for C-1 districts.~~

See Article 10 for sign regulations and limitations.

Sec. 609. SD-9 Biscayne Boulevard North Overlay District.

* * *

Sec. 609.8. Limitations on signs.

~~Sign limitations shall be as for C-1 districts, except for properties which have direct frontage along Biscayne Boulevard or which have frontage within one hundred (100) feet of Biscayne Boulevard, in which case sign limitations shall be as provided below.~~

~~609.8.1 General limitations.~~

~~609.8.1.1. Signs more than fifteen (15) feet above grade.~~

~~a) Signs more than fifteen (15) feet above grade, but less than fifty (50) feet above grade. Signs erected with their lowest portions more than fifteen (15) feet above grade shall be limited to those identifying the building and the~~

~~nature of the establishments it contains. Except as provided below, only one (1) such sign, not exceeding fifty (50) square feet in area for every one hundred fifty (150) feet of length of building wall oriented toward the street, shall be permitted. In addition to the Class II Special Permit required for such signs, referral to the urban development review board shall be mandatory for signs fifteen (15) feet above grade that exceed the allowable fifty (50) square feet of sign area. Area of such signs shall in no case exceed 1.5 square feet for each lineal foot of building wall frontage on a street.~~

~~b) Signs more than fifty (50) feet above grade. Signs erected with their lowest portions more than fifty (50) feet above grade shall be regulated generally by the limitations of section 926.16 of the zoning ordinance (including the criteria stated therein) except for the limitations on the sizes of the letters which shall be as follows:~~

~~1. Letters of signs on buildings with a height of one hundred (100) feet or more shall be permitted up to a height of eight (8) feet; and~~

~~2. Letters of signs on buildings with a height of one hundred fifty (150) feet or more shall be permitted up to a height of ten (10) feet.~~

~~In addition to the Class II Special Permit required for such signs, referral to the urban development review board shall be mandatory.~~

~~609.8.1.2. Signs fifteen (15) feet or less above grade; Limitations on number and area. Wall signs (not including signs in glassed areas of windows or doors) and projecting signs erected with their highest portion fifteen (15) feet or less above grade shall be limited in total area to twenty (20) square feet, except as otherwise specifically provided herein (see section 609.8.2). Signs in glassed areas of~~

~~windows and doors shall not exceed twenty (20) percent of the glassed area of the window or door involved.~~

~~609.8.1.3 Prohibited signs. Billboards, poster panels, balloon signs, ground or freestanding signs and other outdoor advertising signs shall be prohibited in this district. Other offsite signs shall be prohibited except for temporary civic and political campaign signs or except when signs are posted on community or neighborhood bulletin boards or kiosks, in accordance with limitations and regulations relating thereto at section 925.3.10 and those in special permits proceedings on particular community or neighborhood bulletin boards or kiosks.~~

~~609.8.2. Detailed limitations, wall signs, projecting signs, window signs:~~

~~609.8.2.1. Within twenty (20) square feet maximum allowable at or below fifteen (15) feet above grade, the following limitations shall apply to number and area of signs. Not more than one (1) wall sign may be erected per establishment unless the establishment has frontage along two (2) streets, in which case two (2) wall signs shall be permitted, one (1) on each wall fronting a street, and the maximum area of any such sign shall be twenty (20) square feet. Not more than one (1) projecting sign, other than a marquee sign, shall be erected, with not to exceed two (2) surfaces, neither of which shall exceed twenty five (25) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building. Marquee signs shall be limited to one (1) per establishment and three (3) square feet in sign area.~~

~~609.8.3. Directional signs, number and area.~~

~~Directional signs, which may be combined with address signs, but shall bear no advertising manner [matter], may be erected to guide entrances, exits or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit or parking area.~~

See Article 10 for sign regulations and limitations.

* * *

Sec. 611. SD-11. Coconut Grove Rapid Transit District.

* * *

Sec. 611.11 Limitations on signs.

~~Sign limitations shall be as for the C-1 district.~~

See Article 10 for sign regulations and limitations.

* * *

Sec. 613. SD-13 S.W. 27th Avenue Gateway District.

* * *

Sec. 613.11 Limitations on signs.

~~Limitations on signs shall be as required for SD-2 district.~~

See Article 10 for sign regulations and limitations.

Sec. 614. SD-14, 14.1: Latin Quarter Commercial-Residential and Residential Districts.

* * *

614.2.2. Latin Quarter Certificate of Compliance.

A Latin Quarter Certificate of Compliance shall be required for any exterior alteration affecting height, bulk and location of any existing or new building; or for the construction of any new building, sign, awning, landscape, parking or vehicular way visible from a public street that does not exceed twenty-five thousand dollars (\$25,000.00) in cost.

* * *

Conditional accessory uses:

Outdoor advertising businesses shall be permissible as an accessory use to principal commercial uses only, subject to a Class II Special Permit and further limited as follows:

a. Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;

b. Signs shall be limited to one sign per structure only;

c. Sign area shall be limited to no greater than thirty-two (32) square feet;

d. Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused from the total permissible wall sign area for the structure in question; see Article 10 for specific sign regulations and method of calculations and

e. Such signs may either be painted or mounted onto the subject wall.

* * *

614.3.8. Limitations on signs.

~~No signs to be read from off the premises shall be erected except as provided below:~~

~~614.3.8.1. General limitations:~~

~~614.3.8.1.1. Prohibited signs. Billboards, poster panels, ground or freestanding signs and other outdoor advertising signs shall be prohibited in this district. Other offsite signs shall be prohibited except for temporary civic and political campaign signs or except when signs are posted on community or neighborhood bulletin boards or kiosks, in accordance with limitations and regulations relating thereto at section 925.3.10 and those applied in special permit proceedings on particular community or neighborhood bulletin boards or kiosks.~~

~~614.3.8.1.2. Signs more than fifteen feet above grade, limitations on number, area, subject matter. Signs erected with their lowest portions more than fifteen (15) feet above grade shall be limited to those identifying the building and the nature of the establishments it contains. The size of signs shall not be greater than one and one quarter (1.25) square feet per linear foot of wall frontage or a maximum of sixty (60) square feet for every one hundred and fifty (150) feet of length of building wall for each face of the building oriented toward the street. The maximum length of signs shall not exceed sixty (60) percent of the linear street frontage occupied by a licensed establishment. The size of letters shall not exceed eighteen (18) inches in height.~~

~~614.3.8.1.3. Signs fifteen feet or less above grade, limitations on number and area. Wall signs (not including signs in glassed areas of windows or doors) and projecting signs~~

~~erected with their highest portion fifteen (15) feet or less above grade shall be the same as section. Signs in the glassed areas of windows and doors shall not exceed twenty (20) percent of the glassed area of the window or door involved. One (1) ground sign, limited to ten (10) square feet in area, may be erected for buildings on lots where the street yard exceeds twenty (20) feet in depth.~~

~~614.3.8.2. Detailed limitations, wall signs, projecting signs, marquee signs, window signs. Within the twenty (20) square feet maximum allowable at or below fifteen (15) feet above grade, the following limitations shall apply to number and area of signs. Not more than one (1) wall sign may be erected per establishment and maximum area of any such sign shall be twenty (20) square feet. Not more than one (1) projecting sign, other than a marquee sign, shall be erected, with not to exceed two (2) sign surfaces, neither of which shall exceed ten (10) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building. Marquee signs shall be limited to one (1) per establishment and three (3) square feet in sign area.~~

~~614.3.8.3. Real estate signs, construction signs, development signs, number and area. Real estate, construction or development signs, individually or in combination, shall be limited to one (1) per street frontage, not exceeding ten (10) square feet in area, and erected with the highest portion fifteen (15) feet or less above grade. Real estate signs which are not part of construction or development signs shall not require a special permit.~~

~~614.3.8.4. Directional signs, number and area. Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to~~

~~guide to entrances, exits or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.~~

~~614.3.8.5. Community or neighborhood bulletin boards or kiosks, area and location. Area and location of community or neighborhood bulletin boards or kiosks shall be determined at the time of special permit processing.~~

~~614.3.8.6. Additional wall signs for theaters, museums, noncommercial art galleries. In addition to signs permitted above, theaters, museums, noncommercial art galleries and the like may have wall sign areas for display of announcements concerning coming or current exhibits or performances. Area of such display surfaces shall not exceed two (2) square feet for each lineal foot of building wall frontage on a street, with maximum permitted area two hundred (200) square feet. For additional information on signs, see "Latin Quarter Design Guidelines and Standards."~~

~~614.3.8.7. Special permit requirements, specified types of signs. Except where such signs are approved in connection with general special permit actions concerning development on the premises, a Class II permit shall be required for the following signs: Permanent window or door signs; projecting signs; marquee signs; development signs; construction signs; directional signs; community or neighborhood bulletin boards or kiosks, and wall sign display areas for theaters, museums, noncommercial art galleries and the like.~~

~~614.3.8.8. Ground or freestanding signs to be allowed for gasoline stations only by Special Exception. Such signs shall be limited to one (1) sign structure with not to exceed two (2) sign surfaces, neither of which shall exceed forty~~

~~(40) square feet in sign area, for each establishment. Maximum height to top of sign not to exceed twenty six (26) feet. Design of sign shall comply with "The Latin Quarter Design Guides and Standards."~~

See Article 10 for sign regulations and limitations.

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Sec. 615. SD-15 River Quadrant Mixed-Use District.

* * *

Sec. 615.8. Sign regulations.

~~Onsite signs only shall be permitted in this district, subject to the following requirements and limitations. Except as otherwise provided, such signs may be illuminated but shall not be animated or flashing. At retail or service establishments, in addition to identifying the principal business, commodity or service, such signs shall not devote more than half of their actual aggregate to the advertising of subsidiary products sold or services rendered on the premises.~~

~~Construction signs not to exceed one (1) construction sign or thirty (30) square feet in area, for each lot line adjacent to a street.~~

~~Development signs, except where combined with construction signs, shall be permissible only by Class I Special Permit as provided in section 925.3.8.~~

~~Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits or parking areas, but shall not exceed five (5) square feet in surface area.~~

~~Ground or monument signs, limited to one (1) sign structure with not to exceed two (2) signs surfaces, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each fifty feet of street frontage. Permitted sign area shall be cumulative, but no sign surface shall exceed one hundred (100) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided however, that the zoning administrator may increase the measurement of the crown up to five (5) feet to accommodate unusual or undulating site conditions.~~

~~Projecting signs shall be limited to one (1) sign structure with not to exceed two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area; provided however that such permissible sign area shall be increased to eighty (80) square feet where maximum projection from the face of the building is two (2) feet or less, sixty (60) square feet where the projection is more than two (2) and less than three (3) feet, and forty (40) square feet where the projection is at least three (3), but not more than four (4) feet.~~

~~Real estate signs, limited to one (1) per street frontage and not to exceed half the area permissible for the same type of permanent sign on the premises.~~

~~Temporary civic and political campaign signs are allowed, subject to the exceptions limitations and responsibilities of subsections 925.3.11, 925.3.12 and 925.3.13, herein, respectively.~~

~~Wall signs, limited to two and one half ($2\frac{1}{2}$) square feet of sign area for each lineal foot of wall fronting on a street if~~

~~any portion of such sign is below fifteen (15) above grade. For each foot that the lowest portion of such sign exceeds fifteen (15) feet, permitted sign area shall be increased one (1) percent. Not more than three (3) such signs shall be permitted for each frontage on which area calculations are based, but one (1) of these signs may be mounted on a side wall.~~

~~Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which they are placed.~~

See Article 10 for sign regulations and limitations.

Sec. 616. SD-16, 16.1, 16.2 Southeast Overtown-Park West Commercial-Residential Districts.

* * *

Conditional Principal uses:

* * *

Media Tower, as defined and regulated in Article 10.6.3.16.

Conditional accessory uses:

* * *

Outdoor advertising businesses shall be permissible as an accessory use to principal commercial uses only, subject to a Class II Special Permit and further limited as follows:

- a. Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;
- b. Signs shall be limited to one sign per structure only;
- c. Sign area shall be limited to no greater than thirty-two (32) square feet;

d. Permissible sign area may only be utilized on a commercial structure which as the allowable 32 square feet of sign area unused from the total permissible wall sign area for the structure in question; see Article 10 for specific sign regulations and method of calculations and

e. Such signs may either be painted or mounted onto the subject wall.

* * *

Sec. 616.11. Limitations on signs.

~~Sign limitations shall be as set forth in section 602.11, except in SD-16 and 16.1, animated and flashing signs and banners shall be permitted for ground level nonresidential uses fronting on N.E. and N.W. 9 Street. Onsite signs above a height of fifty (50) feet above grade shall be subject to the provisions of section 926.16. Offsite signs are prohibited.~~

See Article 10 for sign regulations and limitations.

* * *

Sec. 620. SD-20 Edgewater Overlay District.

* * *

Sec. 620.8. Limitations on signs.

~~Sign limitations shall be as for C-1 districts, except as provided below:~~

~~620.8.1. General limitations:~~

~~620.8.1.1. Signs more than fifteen (15) feet above grade:~~

~~1. Signs more than fifteen (15) feet above grade, but less than fifty (50) feet above grade. Signs erected with their lowest portions more than fifteen (15) feet above grade shall be limited to those identifying the building and the~~

~~nature of the establishments it contains. Except as provided below, only one (1) such sign, not exceeding fifty (50) square feet in area for every one hundred fifty (150) feet of length of building wall oriented toward the street, shall be permitted. In addition to the Class II Special Permit required for such signs, referral to the urban development review board shall be mandatory for signs fifteen (15) feet above grade that exceed the allowable fifty (50) square feet of sign area. Area of such signs shall in no case exceed 1.5 square feet for each lineal foot of building wall frontage on a street.~~

~~2. Signs more than fifty (50) feet above grade. Signs erected with their lowest portions more than fifty (50) feet above grade shall be regulated generally by the limitations of section 926.16 of this zoning ordinance (including the criteria stated therein) except for the limitations on the sizes of the letters which shall be as follows:~~

~~(a) Letters of signs on buildings with a height of one hundred (100) feet or more shall be permitted up to a height of eight (8) feet; and~~

~~(b) Letters of signs on buildings with a height of one hundred fifty (150) feet or more shall be permitted up to a height of ten (10) feet.~~

~~In addition to the Class II Special Permit required for such signs, referral to the urban development review board shall be mandatory.~~

~~620.8.1.2. Signs fifteen (15) feet or less above grade, limitations on number and area. Wall signs (not including signs in glassed areas of windows or doors) and projecting signs erected with their highest portion fifteen (15) feet or less above grade shall be limited in total area to twenty (20) square feet, except as otherwise specifically provided herein (see section 609.8.2). Signs in glassed areas of~~

windows and doors shall not exceed twenty (20) percent of the glassed area of the window or door involved:

~~620.8.1.3. Prohibited signs. Billboards, poster panels, balloon signs, ground or freestanding signs and other outdoor advertising signs shall be prohibited in this district. Other offsite signs shall be prohibited except for temporary civic and political campaign signs or except when signs are posted on community or neighborhood bulletin boards or kiosks, in accordance with limitations and regulations relating thereto at section 925.3.10 and those in special permits proceedings on particular community or neighborhood bulletin boards or kiosks.~~

~~620.8.2 Detailed limitations, wall signs, projecting signs, window signs:~~

~~620.8.2.1. Within twenty (20) square feet maximum allowable, at or below fifteen (15) feet above grade, the following limitations shall apply to number and area of signs. Not more than one (1) wall sign may be erected per establishment unless the establishment has frontage along two (2) streets, in which case two (2) wall signs shall be permitted, one (1) on each wall fronting a street, and the maximum area of any such sign shall be twenty (20) square feet. Not more than one (1) projecting sign, other than a marquee sign, shall be erected, with not to exceed two (2) surfaces, neither of which shall exceed twenty-five (25) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building. Marquee signs shall be limited to one (1) per establishment and three (3) square feet in sign area.~~

~~620.8.3. Directional signs, number and area.~~

~~Directional signs, which may be combined with address signs, but shall bear no advertising, may be erected to indicate entrances, exits or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit or parking area.~~

See Article 10 for sign regulations and limitations.

* * *

Sec. 622. SD-22 Florida Avenue Special District

* * *

Sec. 622.11. Limitations on signs.

~~(1) Address signs shall not exceed one (1) for each dwelling unit and each sign shall not exceed three (3) square feet in surface area.~~

~~(2) Total signage is limited to ten (10) square feet per building. Signs must be front lit only and illumination of signs shall cause spill over onto adjacent properties.~~

~~(3) No signage shall be placed above the first floor level.~~

See Article 10 for sign regulations and limitations.

* * *

Sec. 623. SD-23 Coral Way Special Overlay District.

* * *

Sec. 623.8. Limitations on signs.

~~Sign limitations shall be as for the underlying districts; except as provided below:~~

~~623.8.1. General limitations:~~

~~623.8.1.1. Signs more than fifteen (15) feet above grade:~~

~~a) Signs more than fifteen (15) feet above grade, but less than fifty (50) feet above grade. Signs erected with their lowest portions more than fifteen (15) feet above grade shall be limited to those identifying the building and the nature of the establishments it contain. Except as provided below, only one (1) such sign, not exceeding fifty (50) square feet in area for every one hundred (100) feet of length of building wall oriented toward the street, shall be permitted. In addition to the Class II Special Permit required for such signs, referral to the urban development review board shall be mandatory for signs fifteen (15) feet above grade that exceed the allowable fifty (50) square feet of sign area. Area of such signs shall in no case exceed 1.5 square feet for each lineal foot of building wall frontage on a street.~~

~~b) Signs more than fifty (50) feet above grade. Signs erected with their lowest portions more than fifty (50) feet above grade shall be regulated generally by the limitations of section 926.16 of this zoning ordinance (including the criteria stated therein) except for the limitations on the sizes of the letters which shall be as follows:~~

~~1. Letters of signs on buildings with a height of one hundred (100) feet or more shall be permitted up to a height of eight (8) feet; and~~

~~2. Letters of signs on buildings with a height of one hundred fifty (150) feet or more shall be permitted up to a height of ten (10) feet.~~

~~In addition to the Class II Special Permit required for such signs, referral to the urban development review board shall be mandatory.~~

~~623.8.1.2. Signs fifteen (15) feet or less above grade; limitations on number and area. Wall signs (not including signs in glassed areas of windows or doors) and projecting signs erected with their highest portion fifteen (15) feet or less above grade shall be limited to one (1) square foot of sign area for each lineal foot of wall frontage on a street, except as otherwise specifically provided herein (see section 623.8.2). Signs in glassed areas of windows and doors shall not exceed twenty (20) percent of the glassed area of the window or door involved.~~

~~623.8.1.3. Prohibited signs. Billboards, poster panels, balloon signs, ground or freestanding signs and other outdoor advertising signs shall be prohibited in this district. Other offsite signs shall be prohibited except for temporary civic and political campaign signs or except when signs are posted on community or neighborhood bulletin boards or kiosks, in accordance with limitations and regulations relating thereto at section 925.3.10 and those in special permits proceedings on particular community or neighborhood bulletin boards or kiosks.~~

~~623.8.2. Detailed limitations, wall signs, projecting signs, window signs:~~

~~623.8.2.1. Within the maximum allowable sign area, at or below fifteen (15) feet above grade (as calculated 623.8.1.2.), the following limitations shall apply to number and area of signs. Not more than one (1) wall sign may be erected per establishment unless the establishment has frontage along two (2) streets, in which case two (2) wall signs shall be permitted, one (1) on each wall fronting a street, and the maximum area of any such sign shall be limited to one (1) square foot of sign area for each lineal foot of wall fronting on the street upon which that wall~~

~~faces. Not more than one (1) projecting sign, other than a marquee sign, shall be erected, with not to exceed two (2) surfaces, neither of which shall exceed twenty five (25) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building. Marquee signs shall be limited to one (1) per establishment and three (3) square feet in sign area.~~

~~623.8.3. Directional signs, number and area:~~

~~Directional signs, which may be combined with address signs, but shall bear no advertising manner [matter], may be erected to guide entrances, exits or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit or parking area.~~

~~623.8.4. Compliance; time limitations for existing non-conforming signage:~~

~~All nonresidential establishments located within the SD-23 District must come into compliance with the signage requirements herein, as they relate to the permitted number of signs, no later than December 31, 2002.~~

See Article 10 for sign regulations and limitations.

Section 624. Reserved

Sec. 625. SD-25 SW 8th Street Special Overlay District

* * *

Conditional accessory uses:

Outdoor advertising businesses shall be permissible as an accessory use to principal commercial uses only, subject to a Class II Special Permit and further limited as follows:

- a. Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;
- b. Signs shall be limited to one sign per structure only;
- c. Sign area shall be limited to no greater than thirty-two (32) square feet;
- d. Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused from the total permissible wall sign area for the structure in question; see Article 10 for specific sign regulations and method of calculations and
- e. Such signs may either be painted or mounted onto the subject wall.

* * *

Sec. 625.8. Limitations on signs.

~~Sign limitations shall be as for the underlying districts, except as provided below:~~

~~625.8.1. General limitations:~~

~~625.8.1.1. Signs more than fifteen (15) feet above grade:~~

~~a) Signs more than fifteen (15) feet above grade but less than fifty (50) feet above grade. Signs erected with their lowest portions more than fifteen (15) feet above grade shall be limited to those identifying the building and the nature of the establishments it contains. Except as provided below, only one (1) such sign, not exceeding fifty (50) square feet in area for every one hundred fifty (100) [sic] feet of length of building wall oriented toward the street, shall be permitted. In addition to the Class II Special Permit required for such signs, referral to the urban~~

~~development review board shall be mandatory for signs fifteen (15) feet above grade that exceed the allowable fifty (50) square feet of sign area. Area of such signs shall in no case exceed 1.5 square feet for each lineal foot of building wall frontage on a street.~~

~~b) Signs more than fifty (50) feet above grade. Signs erected with their lowest portions more than fifty (50) feet above grade shall be regulated generally by the limitations of section 926.16 of this zoning ordinance (including the criteria stated therein) except for the limitations on the sizes of the letters which shall be as follows:~~

~~1. Letters of signs on buildings with a height of one hundred (100) feet or more shall be permitted up to a height of eight (8) feet; and~~

~~2. Letters of signs on buildings with a height of one hundred fifty (150) feet or more shall be permitted up to a height of ten (10) feet.~~

~~In addition to the Class II Special Permit required for such signs, referral to the urban development review board shall be mandatory.~~

~~625.8.1.2. Signs fifteen (15) feet or less above grade; limitations on number and area. Wall signs (not including signs in glassed areas of windows or door) and projecting signs erected with their highest portion fifteen (15) feet or less above grade shall be limited to one (1) square foot of sign area for each lineal foot of wall frontage on a street, except as otherwise specifically provided herein (see section 625.8.2). Signs in glassed areas of windows and doors shall not exceed twenty (20) percent of the glassed area of the window or door involved.~~

~~625.8.1.3. Prohibited signs. Billboards, poster panels, balloon signs, ground or freestanding signs and other~~

~~outdoor advertising signs shall be prohibited in this district. Other offsite signs shall be prohibited except for temporary civic and political campaign signs or except when signs are posted on community or neighborhood bulletin boards or kiosks, in accordance with limitations and regulations relating thereto at section 925.3.10 and those in special permits proceedings on particular community or neighborhood bulletin boards or kiosks.~~

~~625.8.2. Detailed limitations, wall signs, projecting signs, window signs:~~

~~625.8.2.1. Within the maximum allowable sign area, at or below fifteen (15) feet above grade (as calculated 625.8.1.2.), the following limitations shall apply to number and area of signs. Not more than one (1) wall sign may be erected per establishment unless the establishment has frontage along two (2) streets, in which case two (2) wall signs shall be permitted, one (1) on each wall fronting a street, and the maximum area of any such sign shall be limited to one (1) square foot of sign area for each lineal foot of wall fronting on the street upon which that wall faces. Not more than one (1) projecting sign, other than a marquee sign, shall be erected, with not to exceed two (2) surfaces, neither of which shall exceed twenty five (25) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building. Marquee signs shall be limited to one (1) per establishment and three (3) square feet in sign area.~~

~~625.8.3. Directional signs, number and area:~~

~~Directional signs, which may be combined with address signs, but shall bear no advertising manner [matter], may be erected to guide entrances, exits or parking areas. Not~~

~~more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit or parking area.~~

See Article 10 for sign regulations and limitations.

* * *

ARTICLE 9. GENERAL AND SUPPLEMENTARY REGULATIONS

* * *

908.7. Signs in or over required yards.

Signs may be erected in or may overhang required yards to the extent permitted in district regulations, but shall not be so constructed or located as to interfere with visibility triangle requirements or create traffic hazards. (See section 908.11 for visibility triangle requirements.)

* * *

Sec. 925. Reserved. Signs, generally.

~~The following requirements and limitations shall apply with regard to signs, in addition to provisions appearing elsewhere in the text of these regulations or in the schedule of district regulations. No variance from these provisions is permitted.~~

~~925.1. Reserved.~~

~~925.2. Permits required for signs except those exempted, applications.~~

~~Except for classes of signs exempted from permit requirements of section 925.3, all signs shall require permits. Applications for such permits shall be made separately or in combination with applications for other permits, as appropriate to the circumstances of the case, on forms~~

~~provided by the administrative official, and shall be accompanied by such information as is reasonably required to make necessary determinations in the case:~~

~~925.2.1. Permit identification required to be on sign. Any sign requiring a permit or permits shall be clearly marked with the permit number or numbers and the name of the person or firm placing the sign on the premises:~~

~~925.3. Classes of signs and activities in relation to signs exempted from permit requirements; other limitations, regulations, and requirements remain applicable:~~

~~The following classes of signs or activities in connection with signs are exempted from permit requirements, but other limitations, regulations, requirements concerning such signs or activities remain applicable except as otherwise provided:~~

~~925.3.1. Signs erected by or on order of governmental jurisdictions. Sign permits are not required for official signs erected by or on order of governmental jurisdictions, notwithstanding any limitations set out in these regulations:~~

~~925.3.2. National flags and flags of political subdivisions. Sign permits are not required for display of national flags or flags of political subdivisions:~~

~~925.3.3. Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to official holidays, or for celebrations, conventions, or commemorations when authorized by the city commission for a specified period of time:~~

~~925.3.4. Symbolic flags, award flags, house flags. No sign permit shall be required for display of symbolic, award, or house flags, limited in number to one (1) for each institution or establishment for the first fifty (50) feet or less of street frontage and one (1) for each fifty foot increment of lot line adjacent to a street.~~

~~925.3.5. Address, notice, and directional signs, warning signs. No sign permit shall be required for address, notice, and directional signs or warning signs except as otherwise required in this ordinance.~~

~~925.3.6. Signs on vehicles exempted generally; permit required for sign vehicles. No sign permit shall be required for display of signs on automobiles, trucks, buses, trailers, or other vehicles when used for normal purposes of transportation. Signs displayed on sign vehicles shall require a sign permit, except for temporary political or civic campaign signs on vehicles.~~

~~925.3.7. Real estate signs. No sign permit shall be required for real estate signs, provided that the number and area of such signs shall not exceed maximums established for the district in which located, and district regulations shall be controlling as regards location on premises.~~

~~925.3.8. Construction signs; development signs when combined with construction signs: development signs, Class I Special Permit, when required. A sign permit shall be required for construction signs not exceeding two (2) feet in height and three (3) feet in width of sign surface area displayed during the course of actual construction work on the premises, limited to one (1) sign for each lot line adjacent to the street, or for combinations of construction and development signs so limited as to number and area, when displayed during such period. Development~~

~~signs displayed prior to initiation of actual construction on the premises, or construction or development signs displayed following completion of actual construction, shall require a Class I Special Permit. Such Class I Special Permits shall be issued only after required development permits have been issued and shall specify that maximum time permissible between erection of the sign and beginning of construction, conditions under which the sign is to be removed if construction is not begun as specified or is not carried to completion diligently, and requirements for removal or limitations on continuation following construction:~~

~~Beyond these minimums, number and area of such signs shall not exceed maximums established for the district in which located and sign permits shall be required. District regulations shall be controlling as to location on premises, whether or not sign permits are required:~~

~~925.3.9. Balloon. Permitted only in conjunction with a special event by Class I Special Permit in conjunction with the event, and limited to a duration of no more than two (2) weeks (also see section 906.9 regarding limitations for special events). Balloons suspended in air may not be elevated to a height greater than thirty two (32) feet above the rooftop of the building in which the advertised use or occupant is located:~~

~~925.3.10. Community or neighborhood bulletin boards, kiosks; Class I Special Permit required for establishment, but not for posting signs. Class I Special Permits shall be required for establishment of community or neighborhood bulletin boards, including kiosks in districts where permissible, but no sign permits shall be required for posting of notices thereon:~~

~~Subject to approval by the officer or agent designated by the city manager, such signs may be erected on public property. Conditions of such Class I Special Permit shall include assignment of responsibility for erection and/or maintenance, and provision for removal if not properly maintained.~~

~~No such community or neighborhood bulletin board or kiosks shall be used in the conduct of the outdoor advertising business or for the display of outdoor advertising signs nor for the posting of general or continued advertising by commercial or service establishment.~~

~~925.3.11. Temporary civic campaign signs. No sign permit shall be required for temporary civic campaign signs displayed on private property, in nonresidential districts, not exceeding fifteen (15) square feet in sign surface area, and used in connection with civic noncommercial health, safety, or welfare campaigns, provided that all such signs shall exhibit the date of the conclusion of the campaign and shall be removed within three (3) days thereafter. Outdoor advertising signs where otherwise permitted by terms of this ordinance are excluded from the terms of this subsection.~~

~~925.3.12. Temporary political campaign signs. No sign permit shall be required for temporary political campaign signs displayed on private property and used in connection with local, state and national political campaigns, subject to the following exceptions, limitations and responsibilities:~~

~~(a) Outdoor advertising signs, where otherwise permitted by terms of this ordinance, are excluded from this section.~~

~~(b) In residential zoning districts, the maximum size of such signs shall be limited to four (4) square feet per sign~~

~~face; there shall be no more than two (2) sign faces per site.~~

~~(c) The maximum height of such signs shall be limited to four (4) feet from grade to the top of signs.~~

~~(d) Except for (a) above, the height and area of such signs shall be limited to the height and one half ($\frac{1}{2}$) the area of offsite signs permitted.~~

~~(e) Vision clearance areas shall be maintained at street corners and driveways (see section 926.8).~~

~~(f) All signs must conform to the requirements of chapter 42 of the South Florida Building Code as may be amended, except for painted wall signs and paper signs in windows. Portable signs, except for sign vehicles, herein defined as "signs not secured to the ground in accordance with chapter 42 of the South Florida Building Code, as may be amended," shall not be allowed.~~

~~(g) Sign vehicles with temporary political campaign signs may be parked on private property in commercial and industrial districts for a period not to exceed sixteen (16) hours per day. No such sign vehicle shall be parked on private property in residential districts. No sign vehicles shall be parked closer than ten (10) feet from the base building line. Signs on a sign vehicle shall not be illuminated.~~

~~(h) Signs shall not be installed in any zoning district until the subject candidate has qualified for a particular election; signs shall be removed within three (3) days after the conclusion of the particular election.~~

~~(i) A candidate and/or property owner and/or tenant are responsible for any hazard to the general public which is caused by, or created by reason of, the installation and/or~~

~~maintenance of temporary political campaign signs and also are responsible for prompt removal of such signs (see (h) above).~~

~~925.3.13. Removal. Any political or civic sign not posted in accordance with the provisions of this article and any such sign which exists in violation of this article shall be deemed to be a public nuisance and shall be subject to removal by the candidate, property owner or, when a proposition is involved, the person advocating the vote described on the sign.~~

~~925.3.14. Cornerstones, memorials, or tablets. No sign permit is required for cornerstones, memorials, or tablets when part of any masonry surface or constructed of bronze or other incombustible and durable material and used to indicate, without advertising matter, such information as identification and date of construction of buildings, persons present at dedication or involved in development or construction, or significant historical events relating to the premises or development.~~

~~925.3.15. Curbside delivery receptacles; general approval required; sign permit for individual delivery receptacles not required; limitations on location. No sign permit shall be required for erection of curbside delivery receptacles for U.S. mail which have been approved for use by postal authorities. Where curbside delivery receptacles are intended for general use for other purposes (as for example in the case of newspaper deliveries), a Class I Special Permit with mandatory referral to the public works department shall be required for general approval of the design of any such receptacles as are proposed for use in residential districts, and for the color and wording to be used thereon. Following general approval, based on findings that the design, color, and wording of the proposed receptacle are appropriate in residential environments, sign~~

~~permits for erection of individual delivery receptacles of this kind are not required.~~

~~No such curbside delivery receptacle shall extend closer than sixteen (16) inches to the outer edge of the curb or, in the absence of the curb, to the right of way line of any street.~~

~~925.3.16. Signs on bus shelters, benches, trash receptacles, and the like. Where bus shelters, benches, trash receptacles, or other structures or devices for promotion of public comfort, convenience, or health are erected or maintained by public agencies, signs authorized by such agencies shall not require permits. Where such structures or devices are to be privately erected or maintained in districts other than residential, signs thereon shall be subject to limitations and requirements applying generally within such districts.~~

~~Where such structures or devices are to be privately erected or maintained in residential districts, a Class I Special Permit with mandatory referral to the public works department shall be required for approval of design thereof, and in connection with such permit, limitations and requirements shall be established as to character, size, number and method of display and maintenance of any signs, as appropriate to the residential environment.~~

~~As appropriate to the circumstances of the case, Class I Special Permits of this type may be made applicable to individual structures or devices of the character described, or to specified numbers and locations, or to general classes of structures or devices, proposed for erection or maintenance by applicants.~~

~~925.3.17. Weather flags. No sign permit shall be required for weather flags for official notice of weather conditions authorized or displayed by official government agencies,~~

~~provided that not more than one (1) set of such flags shall be permitted on any premises, and that any display of weather signals shall be an accurate reflection of official weather reports:~~

~~925.3.18. Church signs. Freestanding church signs for name and schedule of services shall be permitted, provided that the maximum size of such sign shall be forty (40) square feet.~~

~~925.3.19. Freestanding perimeter wall signs. Freestanding perimeter wall signs identifying a development shall be permitted provided that the maximum square footage of such sign shall not exceed two (2) feet in height and ten (10) feet in width of sign surface area and that such signs shall be limited to one (1) sign per wall facing.~~

~~925.20. Reserved.~~

~~925.2.21. Activities related to signs exempted from permit requirements. No sign permit shall be required for routine change of copy on a sign, the customary use of which involves frequent and periodic changes, or for the relocation of sign embellishments, providing such relocation does not result in increase of total area of the sign beyond permissible limits. Where change in copy changes the class of sign to a nonexempt category, however (as for example when advertising matter is added to a previously exempt address or directional sign), a sign permit shall be required.~~

~~Sec. 926. Reserved. Signs; specific limitations and requirements.~~

~~926.1. Projecting signs, marquees, awnings, and the like; vertical and horizontal clearances:~~

~~Vertical clearances, projections, and clearance from curblines as projected vertically, for projecting signs including~~

~~marquees, and for awnings, canopies, and the like, whether or not bearing signs, shall be as provided in the South Florida Building Code, section 4208, Limitations on projecting signs; section 4304, Location and use (canvas awnings and canopies); and section 4404, Location (rigid awnings, canopies, or canopy shutters). Except as otherwise specified in these zoning regulations, projecting signs shall comply with the yard requirements of the districts in which located.~~

~~926.2. Roof signs; new roof signs prohibited:~~

~~With respect to repair of existing roof signs, the provisions of the South Florida Building Code, section 4206, Limitations on roof signs, shall apply. No permits shall be issued under this zoning ordinance for new roof signs.~~

~~926.3. Ground signs:~~

~~With respect to the location of ground signs, the provisions of the South Florida Building Code, section 4207, Limitations on ground signs, shall apply; provided, however, that where this zoning ordinance establishes further limitations on location of such signs, such limitations shall apply.~~

~~926.4. Structural wall signs or flat signs; clearance above public walkways as required by the South Florida Building Code, section 4209.5.~~

~~926.5. Limitations on wording and illumination of signs; prohibition against blocking egress, light, or ventilation:~~

~~In addition to the limitations and restrictions set forth in this zoning ordinance, the provisions of the South Florida Building Code, section 4209, Detailed requirements, shall apply with respect to blocking required egress, light or ventilation, movement or rotation of sign parts in such a manner as to resemble danger lights or lights on emergency~~

~~vehicles, wording on unofficial signs implying the need or requirement for stopping or the existence of danger when such conditions do not actually exist, or illumination likely to cause confusion with traffic signals.~~

~~926.5.1. Real estate signs, construction signs, development signs shall not mislead as to zoning status of property. No real estate, construction, or development sign shall in any manner state or convey or create the impression that such property may be used for any purpose for which it is not zoned, or that any structure may be used for purposes not permitted by zoning or other regulations.~~

~~926.5.2. Limitations on illuminated or flashing signs; flashing signs prohibited in certain areas adjacent to residential districts. No sign shall be illuminated or flashing unless such signs are specifically authorized by the regulations for the district in which erected.~~

~~Whether or not flashing signs are authorized generally within a district, no flashing sign shall be permitted within one hundred (100) feet of any portion of property in a residential district, as measured along the street frontage on the same side of the street, or as measured in a straight line to property across the street, if the flashing element of such sign is directly visible from the residential property involved (see also section 1107.2.1).~~

~~926.6. Prohibition against revolving or whirling signs and pennant or streamer signs; exception.~~

~~Revolving or whirling signs and pennant or streamer signs are hereby prohibited unless such signs are specifically authorized by the regulations for the district in which erected.~~

~~926.7. Limitations on use of sign vehicles.~~

~~For purposes of these regulations, sign vehicles shall be considered to be sign structures, subject to any regulations applying thereto and to signs displayed thereon, and shall also be subject to any regulations herein set forth or otherwise applying to vehicles and their storage, parking, or location on premises.~~

~~926.8. Prohibition against sign placement impeding visibility of traffic or pedestrians, or creating other hazards.~~

~~No sign or sign support structure shall be so placed as to create hazards to pedestrians or traffic on either public or private premises. In particular, no sign or sign support structure shall be so placed as to violate the provisions of section 908.11, Vision clearance at intersections, or to impede visibility of traffic or pedestrians at other points on public or private premises where such visibility is reasonably necessary to safety, or to create potential hazards to individual vehicles being driven or maneuvering incidental to parking, loading or unloading, on public or private premises.~~

~~926.9. Signs of historic significance.~~

~~Any sign determined to be of historic significance by the Historic and Environmental Preservation Board, through resolution that makes findings according to the criteria below, may be exempted by Class II Special Permit from any sign limitation imposed by this ordinance. The placement of said sign may be as approved by said Class II Special Permit, in any zoning district deemed appropriate according to the considerations and standards below, by the director of the planning, building and zoning department.~~

~~926.9.1. Historic sign criteria. The Historic and Environmental Preservation Board may determine that a sign~~

~~is of historic significance upon finding that said sign contributes to the cultural, historic, or aesthetic character of the city, neighborhood, or streetscape, due to its construction materials, age, prominent location, unique design, or craftsmanship from another period.~~

~~926.9.2. Class II Special Permit required. Upon receipt of the findings of historic significance by the Historic and Environmental Preservation Board, the director of the planning, building and zoning department may issue a Class II Special Permit allowing said historic sign to be repaired, restored, structurally altered, reconstructed, or relocated. The director may refer the application for a Class II Special Permit to the Historic and Environmental Preservation Board for review and recommendation.~~

~~926.9.2.1. Class II Special Permits, considerations and standards. The director shall be guided by the following considerations and standards in his decision as to the issuance of a Class II Special Permit:~~

~~(a) Due consideration shall be given to the size, character, location, and orientation of the sign, with particular reference to traffic safety, glare, and compatibility with adjoining and nearby properties:~~

~~(b) Due consideration shall also be given to the relative historic significance of the sign versus any potentially adverse effects on adjoining and nearby properties, the area, or the neighborhood with reference to location, construction, design, character, or scale.~~

~~926.10. Removal, repair, or replacement of certain signs; prohibition against repair or replacement of certain nonconforming signs ordered removed.~~

~~In addition to removal required for nonconforming signs at section 1107.2, the following rules, requirements, and limitations shall apply with regard to removal, repair, or replacement of certain signs, as indicated below. Orders concerning removal, repair, or replacement shall be guided by the following rules:~~

~~(a) If such signs are otherwise lawful, except for the condition or circumstance leading to the order, the order shall require repair or replacement within a stated time, not to exceed ninety (90) days from the date of the order, or removal prior to the expiration of such period. Such order shall specify that, upon failure to comply within such period, the city shall cause the signs to be removed, with costs assessed against the owner or lessor of the property or the owner of the sign, as appropriate to the circumstances of the case:~~

~~(b) If such signs are nonconforming under the terms of this ordinance by reason of character or location or the use with which associated, or exceed, in combination with other signs on the premises, limitations on number or area of signs, the order shall require any nonconforming signs to be removed or made to conform within a stated time, not to exceed ninety (90) days from the date of the order, and shall specify as above with regard to removal by the city:~~

~~926.10.1. Unsafe signs. Unsafe signs, found to be so under the terms of section 202 of the South Florida Building Code, shall be removed, repaired or replaced as provided therein, if otherwise lawful. If nonconforming, such signs shall be removed:~~

~~926.10.2. Decrepit or dilapidated signs. Signs found to be decrepit or dilapidated (whether or not determined to be unsafe as provided above) shall be removed, repaired, or~~

replaced if otherwise lawful. If nonconforming, such signs shall be removed:

~~926.10.3. Onsite signs advertising establishments, commodities, or services no longer on premises. Onsite signs advertising establishments, commodities, or services previously associated with the premises on which erected, but no longer there, shall be removed within six (6) months from the time such activity ceases. If otherwise lawful, such signs may be replaced by signs advertising establishments, commodities, or services currently associated with the premises. If nonconforming, such signs shall not be replaced.~~

~~926.10.4. Offsite signs bearing obsolete advertising matter. Offsite signs advertising establishments or attractions, commodities, or services which no longer exist or are no longer available, or bearing other obsolete advertising matter, shall be removed. If otherwise lawful, such signs may be replaced by current advertising material. If nonconforming, such signs shall not be replaced.~~

~~926.11. Structural members of signs required to be concealed or otherwise made visually unobtrusive:~~

~~Structural members of all signs, including supports, shall be covered, painted, and/or designed in such a manner as to be visually unobtrusive.~~

~~926.12. Signs of graphic or artistic value:~~

~~The intention of this section is to promote the use of public art and graphics on otherwise blank walls in the central urban core, utilizing when necessary, commercial messages in order to sponsor the artwork. It is not the intention of this section for the artwork to be overpowered by the commercial message or for the commercial message to in any way be more significant in appearance than the artwork.~~

~~For the purposes of this section, commercial messages shall be defined as text, or logos representing the name or trademark or service mark of the sponsor; such commercial message may be of offsite products or businesses as applicable to the sponsorship but shall not be primarily for the purposes of advertising.~~

~~Graphic or artistic signs, or murals, with or without commercial messages and with no limitation to size, shall be permissible within the SD-6, SD-6.1 and CBD zoning districts, excluding those portions of these districts which lie north of I-395, except for those properties which are adjacent to I-395 on the north side of said expressway, which are hereby included in these provisions with the condition that any murals with commercial messages may only be located facing south. Commercial messages on such murals shall be consistent with and comply with Florida Statutes governing the visibility of commercial advertising along interstate highways and shall be permissible by Class II Special Permit with city commission approval. Upon compliance with all other requirements, said signs may be placed on the facade of buildings when it is determined by the city commission that the proposed signs comply with the following criteria and limitations:~~

~~1. The image is of graphic or artistic value or meets the criteria of the Miami Dade County Art In Public Places ordinance;~~

~~2. The commercial message shall be limited to a maximum of ten (10) percent of the total graphic surface and shall be integrated into the graphic or artistic composition so that it appears as a single design; it is preferable that such message be placed in the margin or peripheral areas of the artwork;~~

~~3. If a for profit entity has erected the sign or the sign advertises a for profit entity or product, the city shall be paid a permit fee of five thousand dollars (\$5,000.00) for the first year and shall require annual renewals with fees equal to five (5) percent of the gross proceeds from the advertising rights on said signs, or five thousand dollars (\$5,000.00), whichever is greater, the fee is not required for a change of copy, however a design review of the changed copy and integration with the artwork shall be conducted by the planning director as a modification to the Class II Special Permit;~~

~~4. Consideration for approvals shall also be given to the appropriateness of the proposed sign on an existing building (particularly if the building is historic) as well as the amount of such signs already existing within the immediate area or street; the purpose of this consideration is to ensure that the number of such signs do not have an overall adverse effect to the downtown area by creating visual clutter or posing a negative aesthetic impact on the central urban core; and~~

~~5. As a condition precedent to the issuance of the Class II Special Permit said sign must be submitted to the Urban Development Review Board "UDRB" for its review, consideration and approval.~~

~~926.13-926.14. Reserved.~~

926.15. Outdoor advertising signs.

All new freestanding outdoor advertising signs are prohibited. Signs used in the conduct of the outdoor advertising business shall be regulated pursuant to the restrictions set forth in Article 10 of the zoning ordinance and restricted as follows in districts in which they are permitted.

926.15.1. Limitations on sign area, including embellishments; limitations on projections of embellishments. The

area of an outdoor advertising sign shall not exceed seven hundred fifty (750) square feet, for each surface, including embellishments, if any (with sign and embellishment area as defined at section 2502).

Total area of embellishments, including portions falling within or superimposed on the general display area, shall not exceed one hundred (100) square feet.

No embellishment shall extend more than five (5) feet above the top of the sign structure, or two (2) feet beyond the sides or below the bottom of the sign structure.

Embellishments shall be included in any limitations affecting minimum clearance or maximum height of signs, permitted projections, or distance from any structure or lot or street line.

926.15.2. Limitations on location, orientation, spacing, height, type and embellishments of outdoor advertising signs in relation to limited access highways and expressways. Except as otherwise provided in section 926.15.1, outdoor advertising signs may be erected, constructed, altered, maintained or relocated within six hundred sixty (660) feet but no nearer than two hundred (200) feet of any limited access highway including expressways as established by the State of Florida or any of its political subdivisions, provided that such sign faces are parallel to or at an angle of not greater than thirty (30) degrees with the centerline of any such limited access highway and faced away from such highway.

926.15.2.1. No outdoor advertising sign which faces a limited access highway including expressways as established by the State of Florida to a greater degree than permitted in section 926.15.2. shall be erected, constructed, altered,

maintained, replaced or relocated within six hundred sixty (660) feet of any such highways including expressways, easterly of I-95 and southerly of 36th Street.

Outdoor advertising signs, a maximum of ten (10) in number, including those presently in place, which face such limited access highways may be erected, constructed, altered, maintained, replaced or relocated within two hundred (200) feet of the westerly side of I-95 right-of-way lines, or that portion of the easterly side of I 95 which lies north of 36th Street, or of any limited access highway, including expressways as established by the State of Florida or any of its political subdivisions, westerly of I-95; or which lie easterly of I-95 and north of 36th Street, after city commission approval, and subject to the following conditions:

(a) An outdoor advertising sign structure approved pursuant to this ordinance shall be spaced a minimum of fifteen hundred (1500) feet from another such advertising structure on the same side of a limited access highway including expressways facing in the same direction.

(b) The height of the structure shall not exceed a height of fifty (50) feet measured from the crown of the main traveled road, and in no instance shall exceed a maximum height of sixty-five (65) feet measured from the crown of the nearest adjacent or arterial street.

(c) The sign structure shall be of unipod construction with pantone matching color system PMS180U reddish brown or PMS463U dark brown or similar color, and with only two (2) sign faces back to back at a maximum horizontal angle of thirty (30) degrees from each other.

(d) No flashing, blinking or mechanical devices shall be utilized as a part of the outdoor advertising sign.

(e) Sign area, embellishments and projections shall be as set forth in section 926.15.1.

926.15.3. Limitations on spacing of outdoor advertising signs in relation to federal-aid primary highway systems. Outdoor advertising signs shall be spaced a minimum of one thousand (1,000) feet from another sign, or an approved location, on the same side of a federal-aid primary highway.

926.15.4. Landscaping. All outdoor advertising sites shall be appropriately landscaped as follows: One (1) shade tree for the first five hundred (500) square feet of site area and one (1) side shade tree for each additional one thousand (1,000) square feet or portion thereof of site area; the remainder of the site area shall be landscaped with equal portions of hedges and/or shrubs and living ground cover. Said landscaping shall be provided with irrigation and be maintained in perpetuity.

926.15.4.1. Revocation. Any sign permit issued pursuant to section 926 et seq. shall be subject to revocation, subsequent to a public hearing by the city commission, should city inspectors find that the subject site is not being maintained according to approved landscaping plans or is being kept in an unclean or unsightly manner.

~~926.16. Limitations on onsite signs above a height of fifty (50) feet above grade.~~

~~Except as otherwise provided in section 609 of this zoning ordinance, the following regulations shall apply to all onsite signs above a height of fifty (50) feet above grade:~~

~~1. Building sign content shall be limited to the name of the building or the names of up to two (2) major tenant(s) of the building occupying more than five (5) percent of the gross leasable building floor area.~~

~~2. Signs shall consist only of individual letters and/or a graphic logotype. No graphic embellishments such as borders, or backgrounds shall be permitted.~~

~~3. The maximum height of a letter shall be as follows:~~

~~TABLE INSET:~~

~~If Any Portion of a Sign Is Maximum Letter Height (feet)~~

~~Over fifty (50) feet but less than two hundred (200) feet above grade.....4~~

~~Over two hundred (200) feet but less than three hundred (300) feet above grade.....6~~

~~Over three hundred (300) feet but less than four hundred (400) feet above grade.....8~~

~~Over four hundred (400) feet above grade.....9~~

~~The maximum height of a logo may exceed the maximum letter height by up to fifty (50) percent if its width does not exceed its height. When text and a graphic logotype are combined in an integrated fashion to form a seal or emblem representative of an institution or corporation, and when this emblem is to serve as the principal means of building identification, the following regulations shall apply:~~

~~TABLE INSET:~~

~~If Any Portion of a Sign Is Maximum Sign Surface (sq. ft)~~

~~Over fifty (50) feet but less than two hundred (200) feet above grade.....200~~

~~Over two hundred (200) feet but less than three hundred (300) feet above grade.....300~~

Over three hundred (300) feet but less than four hundred (400) feet above grade..... 400

Over four hundred (400) feet above grade..... 500

4. ~~The maximum length of the sign shall not exceed eighty (80) percent of the width of the building wall upon which it is placed, as measured at the height of the sign. The sign shall consist of not more than one (1) horizontal line of letters and/or symbols, unless it is determined through Class II review that two (2) lines of lettering would be more compatible with the building design. The total length of the two (2) lines of lettering, end to end, if permitted, shall not exceed eighty (80) percent of the width of the building wall.~~

5. ~~Not more than four (4) signs for a single major tenant or not more than two (2) signs shall be permitted per major tenant, defined as a tenant occupying more than five (5) percent of the gross leasable floor area of the building for a maximum of two (2) major tenants.~~

6. ~~No variance from maximum size of letter, logotype, length of sign, number of signs or sign content shall be granted.~~

7. ~~All sign permits shall be subject to Class II approval and review by the Urban Development Review Board (UDRB). The UDRB shall recommend its findings to the planning, building and zoning director. The planning, building and zoning director may waive review by the UDRB if such review procedures would delay issuance of a Class II Special Permit by more than twenty one (21) days from the date of permit application. The UDRB and Class II design review shall be based on the following guidelines:~~

~~(a) Signs should respect the architectural features of the facade and be sized and placed subordinate to those features. Overlapping of functional windows, extensions beyond parapet edges obscuring architectural ornamentation or disruption of dominant facade lines are examples of sign design problems considered unacceptable.~~

~~(b) The sign's color and value (shades of light and dark) should be harmonious with building materials. Strong contrasts in color or value between the sign and building that draw undue visual attention to the sign at the expense of the overall architectural composition shall be avoided.~~

~~(c) In the case of a lighted sign, a reverse channel letter that silhouettes the sign against a lighted building face is desirable. Lighting of a sign should be accompanied by accent lighting of the building's distinctive architectural features and especially the facade area surrounding the sign. Lighted signs on unlit buildings are unacceptable. The objective is a visual lighting emphasis on the building with the lighted sign as subordinate.~~

~~(d) Feature lighting of the building, including exposed light elements that enhance building lines, light sculpture or kinetic displays that meet the criteria of the Dade County art in public places ordinance, shall not be construed as signage subject to these regulations.~~

* * *

Sec. 934. Community based residential facilities.

* * *

934.2.2.6. Limitations on signs. ~~Signs shall be limited to a nameplate not exceeding two (2) square feet for each~~

street frontage. See Article 10 for sign regulations for Community based residential facilities as per the underlying district in which located.

* * *

ARTICLE 10 ~~RESERVED~~ Sign Regulations.

Section 10.1. Purpose of sign regulations; applicability; criteria

10.1.1. Purpose.

The purpose of these regulations is to provide a comprehensive system of regulations for signs visible from the public-right-of-way. The intent of these regulations is to provide a set of standards that is designed to optimize communication and quality of signs while protecting the public and the aesthetic character of the City. It is further intended that these regulations promote the effectiveness of signs by preventing their overconcentration, improper placement, deterioration and excessive size and number. These regulations are specifically intended to be severable, such that if any section, subsection, sentence, clause or phrase of Article 4 and/or 10 is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision shall not affect the validity of the remaining provisions of Article 4 and/or 10.

10.1.2. Intent of regulations.

The intent of the application of these regulations is to:

1. Regulate and control sign structures in order to preserve, protect and promote the public, health, safety and general welfare of the residents of the City of Miami and prevent property damage and personal

injury from signs that are improperly constructed or poorly maintained.

2. Promote the free flow of traffic and protect pedestrians and motorists from injury and property damage caused by, or which may be fully or partially attributable to, cluttered, distracting, and/or illegal signage.
3. Control and reduce visual clutter and blight.
4. Prevent an adverse community appearance from the unrestricted use of signs by providing a reasonable, flexible, fair, comprehensive and enforceable set of regulations that will foster a high quality, aesthetic, visual environment for the City of Miami, enhancing it as a place to live, visit and do business.
5. Assure that public benefits derived from expenditures of public funds for the improvement and beautification of streets and other public structures and spaces shall be protected by exercising reasonable control over the character and design of sign structures.
6. Address the business community's need for adequate business identification and advertising communication by improving the readability, and therefore, the effectiveness of signs by preventing their improper placement, over-concentration, excessive height area and bulk.
7. Coordinate the placement and physical dimensions of signs within the different land use zoning districts.
8. Protect property values, the local economy, and the quality of life by preserving and enhancing the appearance of the streetscapes that affects the image of the City of Miami.
9. Acknowledge the differing design concerns and needs for signs in certain specialized areas such as tourist areas.

10. Require that signs are properly maintained for safety and visual appearance.
11. Provide cost recovery measures supporting the administration and enforcement of Article 10.
12. Protect noncommercial speech such that any sign allowed herein may contain, in lieu of any other message or copy, any lawful noncommercial message, so long as said sign complies with the size, height, area and other requirements of this Article, Article 4 or the City of Miami Code.
13. Provide no more restrictions on speech than necessary to implement the purpose and intent of this Article.

10.1.3. Applicability. These regulations apply to all signs, except those signs located in the public right-of-way, within the City whether or not a permit or other approval is required, unless otherwise specifically regulated. In addition, special permits, as specified in Article 13 of this Zoning Ordinance, may also contain conditions that regulate signs on certain properties. No signs or advertising devices of any kind or nature shall be erected or maintained on any premises or affixed to the inside or outside of any structure to be visible from the public right-of-way except as specifically permitted in or excepted by this Article.

10.1.4. Criteria for granting of a sign permit or other approval as applicable.

10.1.4.1. Permits required for signs except those exempted, applications.

Except for classes of signs exempted from permit requirements as specified in Section 10.3., all signs shall require

permits. Applications for such permits shall be made separately or in combination with applications for other permits, as appropriate to the circumstances of the case, on forms provided by the administrative official, and shall provide at a minimum the following information:

(a) Name, address and telephone number of the applicant;

(b) Name, address and telephone number of the sign owner;

(c) Location by street number, and legal description (tract, block, lot) of the building, structure, or lot to which or upon the sign is to be installed or affixed;

(d) A drawing to scale showing the design of the sign, including the dimensions, sign size, method of attachment, source of illumination, and showing the relationship to any building or structure to which it is, or is proposed to be, installed or placed, or to which it relates;

(e) A fully dimensional plot plan, drawn to scale, indicating the location of the sign relative to property line, right-of-way, streets, sidewalks, and other buildings or structures on the premises;

(f) Number, size and location of all existing signs upon the same building, lot or premises, if applicable; and

(g) Any other information required, if any, by the South Florida Building Code, a copy of which is on file in the City's clerk's office.

10.1.4.2. Permit identification required to be on sign. Any sign requiring a permit or permits shall be clearly marked with the permit number or numbers and the name of the

person or firm responsible for placement of the sign on the premises.

10.1.4.3. Criteria. In the review and approval of signs, the City shall ensure compliance with all applicable sections of the South Florida Building Code, and that the following criteria have been found to comply with the zoning regulations herein:

1. The size and area of the signs comply with the specifications set forth for the type of sign and the zoning district in which the sign is to be located; and
2. The signs comply with location standards on the subject property or structure as specified herein.

10.1.5. Sign Permit Fees

The fees prescribed in this Article must be paid to the City of Miami for each sign installation for which a permit is required by this Article and must be paid before any such permit is issued, as provided for herein.

Fees for sign permits for each sign erected, installed, affixed, structurally or electrically altered or relocated shall be determined in accordance with the fee schedule established by resolution of the City Commission and set forth in Chapter 10 and 62 of the City Code.

10.1.6. Approval of sign permit. A sign permit may be approved by the planning and zoning department if the criteria set forth in section 10.1.4.3 herein has been met, all other necessary approvals, if any, have been obtained and all required fees have been paid.

10.1.7 Transferability of sign permit. Permits, permit numbers or permit applications and attachments shall not

be transferable to other sites. They are valid only for a specific sign structure at the specifically designated location subject to Section 10.3.1.8. If at any time, a sign structure is altered, removed or relocated in a manner different from the terms of the sign permit, the sign permit will become void, unless otherwise provided in this Article.

Sec. 10.2. Definitions.

Bulletin board, community or neighborhood. Sign structure intended and reserved for the free and informal posting of temporary notices by individuals or public or quasi-public organizations, clubs, and the like.

Changeable copy sign. Sign on which copy can be changed either in the field or by remote means.

Kiosk. A freestanding bulletin board having more than two (2) faces.

Marquee. A permanent, roofed structure that is attached to and supported by a building and that projects over a public right-of-way.

Media Tower. A structure that may serve as a viewing tower and a kinetic illuminated media display system, utilizing signage, video and all other forms of animated illuminated visual message media within the Southeast/Overtown Park West Redevelopment Area.

It is intended that such a structure shall be used to achieve an overall effect and aesthetic consistency within the private-owned properties within the District based upon criteria provided for and set forth in the implementing zoning ordinance provisions and applicable provisions of Chapter 163, Part III, Florida Statutes referred to

herein as the Community Redevelopment Act of 1969, and in the implementing provisions of this ordinance.

Implementation:

The Miami Media Tower shall exist solely in the Southeast Overtown/Park West Redevelopment Area.

Such a "Media Tower", inclusive of animated signage, shall not be implemented until such time that a Masterplan for the Community Redevelopment Area is completed, and an appropriate location for such a project is identified.

Criteria

It is the purpose of the Miami Media Tower to (a) define an area in the City where signage of this type can be placed on a tower(s) that together with architectural design standards for buildings within the area as well as urban design standards based on new urbanist principles in the area of the City will establish a unique local, regional and national identity within the District; (b) strengthen the economy of the City by encouraging the development and redevelopment of a depressed, blighted and slum area within a major redevelopment area within the downtown core of the City; and (c) provide a source of funds to be used exclusively within said redevelopment area for redevelopment related activities, and nothing else.

Permitting:

A Class II Special Permit shall be required for all such signs specified herein. All applications shall require a mandatory review by the Urban Development Review Board and approval by the Executive Director of the CRA.

Outdoor advertising business. The business use of providing outdoor displays or display space on a lease or rental basis for general advertising and not primarily or necessarily for advertising related to the premises on which erected. Such use shall be considered a separate business use of a site subject to licensing and conformance of the permitted use of the outdoor advertising sign shall be considered independently.

Outdoor advertising sign. Sign where the sign copy does not pertain to the use of the property, a product sold, or the sale or lease of the property on which sign is displayed and which does not identify the place of business as purveyor of the merchandise or services advertised on the sign. Any outdoor advertising signs located on a site is considered a separate business use of that site and conformance of the permitted use of the outdoor advertising sign shall be considered independently.

Sign. Any identification, description, illustration, or device, illuminated or nonilluminated, that is visible from a public right-of-way or is located on private property and visible to the public and, which directs attention to a product, place, activity, person, institution, business, message or solicitation, including any permanently installed or situated merchandise, with the exception of window displays, and any letter, numeral, character, figure, emblem, painting, banner, pennant, placard, or temporary sign designed to advertise, identify or convey information.

The following are specifically excluded from this definition of "sign":

1. Governmental signs and legal notices.
2. Signs not visible beyond the boundaries of the lot or parcel upon which they are located, or from any public right-of-way.
3. Signs displayed within the interior of a building not visible from the exterior of the building.
4. National flags and flags of political subdivisions.
5. Weather flags.
6. Address numbers, provided they do not exceed two square feet in area.
7. Signs located in the public right-of-way which shall be governed by Chapter 54 of the City Code.

Sign, address. Signs limited in subject matter to the street number and/or postal address of the property, the names of occupants, the name of the property, and, as appropriate to the circumstances, any matter permissible in the form of notice, directional, or warning signs, as defined below. Names of occupants may include indications as to their professions, but any sign bearing advertising matter shall be construed to be an advertising sign, as defined below.

Sign, advertising. Signs intended to promote the sale of goods or services, or to promote attendance at events or attractions. Except as otherwise provided, any sign bearing advertising matter shall be considered an advertising sign for the purposes of these regulations.

Sign, animated. Any sign or part of a sign, which changes physical position by any movement, or rotation, or which gives the visual impression of such movement or rotation.

Sign, revolving or whirling. A revolving or whirling sign is an animated sign, which revolves or turns, or has external sign elements that revolve or turn, at a speed greater than six (6) revolutions per minute. Such sign may be power-driven or propelled by the force of wind or air.

Sign, banner. A sign made from flexible material suspended from a pole or poles, or with one (1) or both ends attached to a structure or structures. Where signs are composed of strings of banners, they shall be construed to be pennant or streamer signs.

Sign, canopy, or awning. A sign painted, stamped, perforated, stitched or otherwise applied on the valance of an awning, eyelid or other protrusion above or around a window, door or other opening on a facade.

Sign, construction. A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of individuals or entities associated with, participating in or having a role or interest with respect to the project. Notable features of the project under construction may be included in construction signs by way of text and/or images.

Sign, development. Onsite signs announcing features of proposed developments, or developments either completed or in process of completion.

Sign, flashing. A sign which gives the effect of intermittent movement, or which changes to give more than one (1) visual effect.

Sign, frontage, as related to regulation. Notwithstanding definitions in this zoning ordinance referring to lot frontage, for the purpose of regulating the number of signs, the

term "fronting on a street," "street frontage," or "frontage" shall be construed as adjacent to a street, whether at the front, rear, or side of a lot.

Sign, ground or freestanding. Any non-movable sign not affixed to a building, a self supporting sign. Ground signs shall be construed as including signs mounted on poles or posts in the, ground, signs on fences, signs on walls other than the walls of buildings, signs on sign vehicles, portable signs for placement on the ground (A-frame, inverted T-frame and the like), signs on or suspended from tethered balloons or other tethered airborne devices, and signs created by landscaping. (See "portable sign" below).

Sign, hanging. A projecting sign suspended vertically from and supported by the underside of a canopy, marquee, awning or from a bracket or other device extending from a structure.

Sign, home occupation. A sign containing only the name and occupation of a permitted home occupation.

Sign, identification. A sign, limited to the name, address and number of a building, institution or person and to the activity, carried on in the building or institution or the occupation of the person.

Sign, illuminated. A sign illuminated in any manner by an artificial light source. Where artificial lighting making the sign visible is incidental to general illumination of the premises, the sign shall not be construed to be an illuminated sign.

Sign, indirectly illuminated. A sign illuminated primarily by light directed toward or across it or by backlighting from a source not within it. Sources of illumination for

such signs may be in the form of gooseneck lamps, spotlights, or luminous tubing. Reflectorized signs depending on automobile headlights for an image in periods of darkness shall be construed to be indirectly illuminated signs.

Sign, internally (or directly) illuminated. A sign containing its own source of artificial light internally, and dependent primarily upon such source for visibility during periods of darkness.

Sign, notice, directional, and warning. For the special purposes of these regulations, and in the interest of protecting life and property, notice, directional, and warning signs are defined as signs limited to providing notice concerning posting of property against trespass, directing deliveries or indicating location of entrances, exits and parking on private property, indicating location of buried utilities, warning against hazardous conditions, prohibiting salesmen, peddlers, or agents, and the like.

Sign, offsite. A sign depicting or conveying either commercial or noncommercial messages, or combinations thereof, and not related to the uses or premises on which erected.

Sign, onsite. A sign depicting or conveying either commercial or noncommercial messages, or combinations thereof, which are directly related to the uses or premises on which erected.

Sign, pennant or streamer. Pennant or streamer signs or signs made up of strings of pennants, or composed of ribbons or streamers, and suspended over open premises and/or attached to buildings.

Sign, portable. A sign, not permanently affixed to a building, structure or the ground.

Sign, projecting. A sign wholly or partially attached to a building or other structure and which projects more than twelve (12) inches from its surface.

Sign, real estate. Signs used solely for the purpose of offering the property on which they are displayed for sale, rent, lease, or inspection or indicating that the property has been sold, rented, or leased. Such signs shall be non-illuminated and limited in content to the name of the owner or agent, an address and/or telephone number for contact, and an indication of the area and general classification of the property. Real estate signs are distinguished in these regulations from other forms of advertising signs and are permitted in certain districts and locations from which other forms of advertising signs also are excluded.

Sign, roof. A sign affixed in any manner to the roof of a building, or a sign mounted in whole or in part on the wall of the building and extending above the eave line of a pitched roof or the roof line (or parapet line, if a parapet exists) of a flat roof.

Sign, temporary. A sign or advertising display intended to be displayed for a limited and brief period of time.

Sign, vehicle. A trailer, automobile, truck, or other vehicle used primarily for the display of signs (rather than with sign display incidental to use of the vehicle for transportation

Sign, wall or flat. A sign painted on the outside of a building, or attached to, and erected parallel to the face of a building, and supported throughout its length by such building.

Sign, window. A sign painted, attached or affixed in any manner to the interior or exterior of a window which is visible, wholly or in part from the public right-of-way.

Sign structure. A structure for the display or support of signs.

In addition, for purposes of these regulations, and notwithstanding the definition of structure generally applicable in these zoning regulations, any trailer or other vehicle, and any other device which is readily movable and designed or used primarily for the display of signs (rather than with signs as an accessory function) shall be construed to be a sign structure, and any signs thereon shall be limited in area, number, location, and other characteristics in accordance with general regulations and regulations applying in the district in which displayed.

Signs, area of. The surface area of a sign shall be computed as including the entire area within a parallelogram, triangle, circle, semicircle or other regular geometric figure, including all of the elements of the matter displayed, but not including blank masking (a plain strip, bearing no advertising matter around the edge of a sign), frames, display of identification or licensing officially required by any governmental body, or structural elements outside the sign surface and bearing no advertising matter. In the case of signs mounted back-to-back or angled away from each other, the surface area of each sign shall be computed. In the case of cylindrical signs, signs in the shape of cubes, or other signs, which are substantially three-dimensional with respect to their display surfaces, the entire display surface or surfaces shall be included in computations of area.

In the case of embellishments (display portions of signs extending outside the general display area), surface area extending outside the general display area and bearing advertising material shall be computed separately as part of the total surface area of the sign. Notwithstanding definitions in this zoning ordinance referring to lot frontage, for the purpose of regulating the area of signs, the terms "fronting on a street," "street frontage," or "frontage" shall be construed as adjacent to a street, whether at the front, rear, or side of a lot. (See also diagram on number and area of signs.)

Signs, number of. For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of units or where there is a reasonable doubt about relationship of elements, each element shall be considered to be a single sign. Where sign surfaces are intended to be read from different directions (as in the case of signs back-to-back or angled from each other), each surface shall be considered to be a single sign.

Notwithstanding definitions in this zoning ordinance referring to lot frontage, for the purpose of regulating the number of signs, the term "fronting on a street," "street frontage," or "frontage" shall be construed as adjacent to a street, whether at the front, rear, or side of a lot.

Sec. 10.3. Signs exempted from permit requirements; other limitations, regulations, and requirements remain applicable.

The following types of signs, and change of copy of signs, are exempted from permit requirements due to the public

health, safety and welfare nature of the uses for which they are required, more specifically because such signs are needed in order to convey messages to protect lives, give direction, identify public accessways, and protect civil rights; or due to their temporary nature.

Such signs shall comply with size and location requirements as set forth in the zoning district regulations for the specific zoning district in which they are to be located.

10.3.1. Permanent signs exempt from permits.

The following permanent signs shall not require permits as set forth herein.

10.3.1.1. Address, notice, and directional signs, warning signs. No sign permit shall be required for address, notice, and directional signs or warning signs except as otherwise required in this Article.

10.3.1.2. Cornerstones, memorials, or tablets. Due to their historic and/or civic significance to the community, no sign permit is required for cornerstones, memorials, or tablets when part of any masonry surface or constructed of bronze or other incombustible and durable material; such signs shall be limited to identification and date of construction of buildings, persons present at dedication or involved in development or construction, or significant historical events relating to the premises or development.

10.3.1.3. Community or neighborhood bulletin boards, kiosks; Class I Special Permit required for establishment, but not for posting signs. Class I Special Permits shall be required for establishment of community or neighborhood bulletin boards, including kiosks in districts where permissible, but no sign permits shall be required for posting of notices thereon. Size and location standards shall be as

set forth in the districts where permissible. Subject to approval by the officer or agent designated by the City manager, such bulletin boards or kiosks may be erected on public property. Conditions of such Class I Special Permit shall include assignment of responsibility for erection and/or maintenance, and provision for removal if not properly maintained.

10.3.1.4. Curbside delivery receptacles; general approval required; sign permit for individual delivery receptacles not required; limitations on location. No sign permit shall be required for erection of curbside delivery receptacles for U.S. mail which have been approved for use by postal authorities. Where curbside delivery receptacles are intended for general use for other purposes (as for example in the case of newspaper deliveries), a Class I Special Permit with mandatory referral to the public works department shall be required for general approval of the design of any such receptacles as are proposed for use in residential districts, and for the color to be used thereon. Following general approval based on findings that the design and color of the proposed receptacle are appropriate in residential environments, sign permits for erection of individual delivery receptacles of this kind are not required. No such curbside delivery receptacle shall extend closer than sixteen (16) inches to the outer edge of the curb or, in the absence the curb, to the right-of-way line of any street.

10.3.1.5. Signs on vehicles exempted. No sign permit shall be required for display of signs on automobiles, trucks, buses, trailers, or other vehicles when used for normal purposes of transportation.

10.3.1.6. Symbolic flags, award flags, house flags. No sign permit shall be required for display of symbolic, award, or house flags, limited in number to one (1) for each institution or establishment for the first fifty (50) feet or less of street frontage and one (1) for each fifty-foot increment of lot line adjacent to a street.

10.3.1.7. Window signs. In residential districts, signs placed in the window area, that do not exceed one (1) square foot in area, limited to one such sign per residential unit, shall not require a permit.

10.3.1.8. Change of copy. No sign permit shall be required for routine change of copy on a sign, the customary use of which involves frequent and periodic changes, or for the relocation of sign embellishments, providing such relocation does not result in increase of total area of the sign beyond permissible limits. Any sign allowed herein may contain, in lieu of any other message or copy, any lawful noncommercial message, so long as said sign complies with the size, height, area and other requirements of this Article, Article 4, and the City of Miami Code. Where change in copy changes the type of sign to a nonexempt category, however, a sign permit shall be required.

10.3.2. Temporary signs exempt from permits.

For the purposes of this Article, temporary signs shall be removed within thirty (30) days of the event to which they are related, unless otherwise specified.

10.3.2.1. Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays in residential and non-residential

districts, or for community-wide celebrations, conventions, or commemorations in non-residential districts when authorized by the city commission.

Such signs shall be removed within thirty (30) days of such events.

10.3.2.2. Construction and development signs: development signs when combined with construction signs: development signs, Class I Special Permit, when required.

A sign permit shall not be required for construction signs that do not exceed two (2) feet in height and three (3) feet in width of sign surface area. Such signs may be displayed during the course of actual construction work on the premises. Such signs shall be limited to one (1) sign for each lot line adjacent to the street, or for combinations of construction and development signs so limited as to number and area, when displayed during such period. Construction signs that exceed the area specified herein shall be permissible by Class I Special Permit only. Such signs shall be removed within thirty (30) days of the issuance of a final certificate of occupancy.

Development signs displayed prior to initiation of actual construction on the premises, or construction or development signs displayed following completion of actual construction shall require a Class I Special Permit. Such Class I Special Permits shall be issued only after required development permits have been issued and shall specify the maximum time permissible between erection of the sign and beginning of construction, conditions under which the sign is to be removed if construction is not begun as specified or is not carried to completion diligently, and requirements for removal or limitations on continuation following construction.

The number and area of such signs shall not exceed maximums established for the district in which located and sign permits shall be required. District regulations shall be controlling as to location on premises, whether or not sign permits are required.

10.3.2.3. Balloons. Permitted only in conjunction with a special event by Class I Special Permit in conjunction with the event, and limited to a duration of no more than two (2) weeks (also see section 906.9 regarding limitations for special events). Balloons suspended in air may not be elevated to a height greater than thirty-two (32) feet above the rooftop of the building in which the advertised use or occupant is located.

10.3.2.4. Real estate signs.

In nonresidential districts:

No sign permit shall be required for real estate signs displayed on private property, in nonresidential districts, not exceeding fifteen (15) square feet in sign surface area. Such signs shall be removed within thirty (30) days of the sale or rental of the property.

In residential districts:

No sign permit shall be required for real estate signs displayed on private property, in residential districts, not exceeding one (1) square foot in sign surface area. Such signs shall be removed within thirty (30) days of the sale or rental of the property.

10.3.2.5. Political election signs. In nonresidential districts:

No sign permit shall be required for political election signs displayed on private property, in nonresidential districts, not exceeding fifteen (15) square feet in aggregate of sign surface area. Such signs shall be removed within thirty (30) days of the election period.

In residential districts:

No sign permit shall be required for political election signs displayed on private property, in residential districts, not exceeding four (4) square feet in aggregate of sign surface area.

Such signs shall be removed within thirty (30) days of the election period.

10.3.2.6. All temporary signs covered in this section shall, in addition to the size limitations specified above, be subject to the following limitations and responsibilities:

(a) In residential districts, the maximum height of such signs shall be limited to four (4) feet from grade to the top of signs.

(b) In nonresidential districts, the maximum height of such signs shall be limited to fifteen (15) feet from grade to the top of signs.

(c) Vision clearance areas shall be maintained at street corners and driveways (see section 10.4).

(d) All signs must conform to the requirements of chapter 42 of the South Florida Building Code as may be amended, except for painted wall signs and paper signs in windows. Portable signs, except for sign vehicles, herein

defined as "signs not secured to the ground in accordance with chapter 42 of the South Florida Building Code, as may be amended," shall not be allowed.

(e) Sign vehicles consisting of temporary signs under ten (10) square feet in area may be parked on private property in commercial and industrial districts for a period not to exceed eight (8) hours per day. Sign vehicles consisting of temporary signs in excess of ten (10) square feet shall be permissible only by Class II Special Permit, in order to ensure that such signs are not visually obtrusive, dangerous due to the increased size and that the method of attachment is appropriate. No such sign vehicle shall be parked on private property in residential districts. No sign vehicle shall be parked closer than ten (10) feet from the base building line. Signs on a sign vehicle shall not be illuminated.

(f) The property owner on which a temporary sign is posted shall be responsible for any hazard to the general public which is caused by, or created by reason of, the installation and/or maintenance of such temporary sign; and in the case of temporary political election signs, the candidate or, when a proposition is involved, the person advocating the vote described on the sign, shall also be responsible for its removal in accordance with Florida Statute section 106.1435.

10.3.2.6. Removal. Any temporary sign not posted in accordance with the provisions of this Article and any such sign which exists in violation of this Article shall be deemed to be a public nuisance and shall be subject to the imposition of fines and written notice of violation requiring removal by the property owner in accordance with the applicable sections of the City Code and/or Zoning

Ordinance; and in the case of temporary political election signs, the candidate or, when a proposition is involved, the person advocating the vote described on the sign, shall also be responsible for its removal in accordance with Florida Statute section 106.1435.

Sec.10.4. General requirements.

The following general requirements and limitations shall apply with regard to signs, in addition to provisions appearing elsewhere in the text of these regulations. No variance from these provisions is permitted, unless otherwise provided herein.

10.4.1. Any sign allowed herein may contain, in lieu of any other message or copy, any lawful noncommercial message, so long as said sign complies with the size, height, area and other requirements of this Article, Article 4, and the City of Miami Code.

10.4.2. Projecting signs, marquees, awnings, and the like; vertical and horizontal clearances.

Vertical clearances, projections, and clearance from curb-lines as projected vertically, for projecting signs including marquees, and for awnings, canopies, and the like, whether or not bearing signs, shall be as provided in the South Florida Building Code, section 4208, Limitations on projecting signs; section 4304, Location and use (canvas awnings and canopies); and section 4404, Location (rigid awnings, canopies, or canopy shutters).

Except as otherwise specified in these zoning regulations, projecting signs shall comply with the yard requirements of the districts in which located.

10.4.3. Roof signs; new roof signs prohibited.

With respect to repair of existing roof signs, the provisions of the South Florida Building Code, section 4206, Limitations on roof signs, shall apply. No permits shall be issued under this zoning ordinance for new roof signs, pursuant to Article XXIV, section 1, subsection 7(a), and article XXIII, section 3, subsection 3(a), Ordinance No. 6871, as amended, repealed by Ordinance No. 9500, as amended, the same being provisions dealing with roof signs and requiring their termination and removal from the premises on which they are located not later than twelve (12) years following the date they became nonconforming, shall continue to be operative and given full force and effect. All legal proceedings begun and all legal proceedings that might have been begun under these provisions of Ordinance No. 9500, as amended, prior to the repeal of Ordinance No. 9500, as amended, shall be given full force and effect as though Ordinance No. 9500, as amended, had not been repealed.

10.4.4. Signs of graphic or artistic value; new signs of graphic artistic value prohibited.

For the purposes of this section, "Signs of graphic or artistic value" are artistic images which meet the criteria of the Miami Dade County Art In Public Places ordinance and contain a commercial sponsorship message, defined as text, or logos representing the name or trademark or service mark of the sponsor; such commercial message may be of offsite products or businesses as applicable to the sponsorship but shall not be primarily for the purposes of advertising. Except as otherwise provided in these zoning regulations, no additional "Signs of graphic or artistic value" shall be allowed. With respect to existing

signs of graphic or artistic value, Section 926.12. "Signs of graphic or artistic value" of Ordinance 11000, as amended, the Zoning Ordinance of the City of Miami, and dealing with "Signs of graphic or artistic value" is repealed by the enactment of Ordinance No. [sic] and all existing signs of graphic or artistic value shall be removed from the premises on which they are located not later than five (5) years from the effective date of this Ordinance, however, all legal proceedings begun and all legal proceedings that might have been begun under these provisions of Ordinance No. 11000, as amended, governing signs of graphic or artistic value, prior to the repeal of the above referenced subsections of Ordinance No. 11000, as amended, shall be given full force and effect as though said subsections had not been repealed.

10.4.5. Outdoor advertising signs; new signs of outdoor advertising prohibited.

For the purposes of this section, "Outdoor advertising signs" are signs used in the conduct of the outdoor advertising business; an outdoor advertising business, for the purpose of this section, is defined as the business of receiving or paying money for displaying signs where the sign copy does not pertain to the use of the property, a product sold, or the sale or lease of the property on which the sign is displayed and which does not identify the place of business as purveyor of the merchandise or services advertised on the sign.

Except as otherwise provided in Articles 4 and 10 and/or the City Code, no new freestanding "Outdoor advertising signs," as defined above shall be allowed.

With respect to existing outdoor advertising signs, Section 926.15 "Outdoor advertising signs" of Ordinance 11000

adopted in 1990, the Zoning Ordinance of the City of Miami, and dealing with "outdoor advertising signs," is hereby repealed to the extent it is inconsistent with any provision contained in this Article, nothing, however, in this Article shall affect those provisions of Section 926.15 requiring the termination and removal of freestanding outdoor advertising signs from the premises on which they were located not later than five (5) years following the date they became nonconforming as a result of the passage of Ordinance No. 11000 in 1990, and such provisions shall continue to be operative and given full force and effect. Moreover, nothing in this Article shall affect any legal proceedings begun and all legal proceedings that might have been begun under these provisions of Ordinance No. 11000, as adopted in 1990, and such proceedings shall be given full force and effect.

10.4.6. Ground signs.

With respect to the location of ground signs, the provisions of the South Florida Building Code, section 4207, Limitations on ground signs, shall apply; provided, however, that where this zoning ordinance establishes further limitations on location of such signs, such limitations shall apply.

10.4.7. Structural wall signs or flat signs; clearance above public walkways.

Structural wall signs or flat signs shall provide clearance above public walkways as required by the South Florida Building Code, section 4209.5.

10.4.8. Limitations regarding illumination of signs; prohibition against blocking egresses, light, or ventilation or causing hazards.

In addition to the limitations and restrictions set forth in this zoning ordinance, the provisions of the South Florida Building Code, section 4209, Detailed requirements, shall apply with respect to blocking required egress, light or ventilation, movement or rotation of sign parts in such a manner as to resemble danger lights or lights on emergency vehicles, wording on unofficial signs implying the need or requirement for stopping or the existence of danger when such conditions do not actually exist, or illumination likely to cause confusion with traffic signals.

10.4.8.1. Limitations on false and misleading signs. It shall be unlawful to post any sign that is false or misleading.

10.4.8.2. Limitations on illuminated or flashing signs; flashing signs prohibited in certain areas adjacent to residential districts. No sign shall be illuminated or flashing unless such signs are specifically authorized by the regulations for the district in which erected.

Whether or not flashing signs are authorized generally within a district, no flashing sign shall be permitted within one hundred (100) feet of any portion of property in a residential district, as measured along the street frontage on the same side of the street, or as measured in a straight line to property across the street, if the flashing element of such sign is directly visible from the residential property involved (see also section 10.8.1).

10.4.9. Prohibition against revolving or whirling signs and pennant or streamer signs; exception.

Revolving or whirling signs and pennant or streamer signs are hereby prohibited unless such signs are specifically

authorized by the regulations for the district in which erected.

10.4.10. Prohibition against sign placement impeding visibility of traffic or pedestrians, or creating other hazards.

No sign or sign support structure shall be so placed as to create hazards to pedestrians or traffic on either public or private premises. In particular, no sign or sign support structure shall be so placed as to violate the provisions of section 908.11, Vision clearance at intersections, or to impede visibility of traffic or pedestrians at other points on public or private premises where such visibility is reasonably necessary to safety, or to create potential hazards to individual vehicles being driven or maneuvering incidental to parking, loading or unloading, on public or private premises.

10.4.11. Signs of historic significance.

Any sign determined to be of historic significance by the Historic and Environmental Preservation Board, through resolution that makes findings according to the criteria below, may be exempted by Class II Special Permit from any sign limitation imposed by Article 10. The placement of said sign may be as approved by said Class II Special Permit, in any zoning district deemed appropriate according to the considerations and standards below, by the director of the planning, building and zoning department.

Historic sign criteria. The Historic and Environmental Preservation Board, in accordance with Article 7 of the Zoning Ordinance and Chapters 23 and 62 of the City Code, may determine that a sign is of historic significance upon finding that said sign contributes to the cultural,

historic, or aesthetic character of the City, neighborhood, or streetscape, due to its construction materials, age, prominent location, unique design, or craftsmanship from another period.

10.4.11.1. Class II Special Permit required. Upon receipt of the findings of historic significance by the Historic and Environmental Preservation Board, the director of the planning, building and zoning department may issue a Class II Special Permit allowing said historic sign to be repaired, restored, structurally altered, reconstructed, or relocated. The director may refer the application for a Class II Special Permit to the Historic and Environmental Preservation Board for review and recommendation.

10.4.11.2. Class II Special Permits, considerations and standards. The director shall be guided by the following considerations and standards in his/her decision as to the issuance of a Class II Special Permit:

(a) Due consideration shall be given to the size, character, location, and orientation of the sign, with particular reference to traffic safety, glare, and compatibility with adjoining and nearby properties.

(b) Due consideration shall also be given to the relative historic significance of the sign versus any potentially adverse effects on adjoining and nearby properties, the area, or the neighborhood with reference to location, construction, design, character, or scale.

10.4.11.3. Class II Special Permits, review process. Such decisions by the Planning and Zoning Director may be appealed in accordance with provision Article 15 of the Zoning Ordinance.

10.4.12. Removal, repair, or replacement of certain signs; prohibition against repair or replacement of certain nonconforming signs ordered removed.

In addition to removal required for nonconforming signs at Section 10.8., the following rules, requirements, and limitations shall apply with regard to removal, repair, or replacement of certain signs, as indicated below.

Orders concerning removal, repair, or replacement shall be guided by the following rules:

(a) If such signs are otherwise lawfully permitted, except for the condition or circumstance leading to an order issued by any official City or County Board with applicable jurisdiction in accordance with the applicable provisions of the City Code, the South Florida Building Code or this Article, the order shall require repair or replacement within a stated time, not to exceed ninety (90) days from the date of the order, or removal prior to the expiration of such period.

(b) If such signs are nonconforming under the terms of Ordinance No. [sic] by reason of character or location or the use with which associated, or exceed, in combination with other signs on the premises, limitations on number or area of signs, the order shall require any nonconforming signs to be removed or made to conform within a stated time, not to exceed ninety (90) days from the date of the order.

(c) Any order issued by a official City or County Board with jurisdiction may be appealed in accordance with the review procedures set forth in the applicable sections of the City Code, South Florida Building Code or Zoning Ordinance.

10.4.13. Removal for reasons of safety; obsolete material; maintenance required.

10.4.13.1. Unsafe signs. Where any sign is in eminent danger of falling, is a threat to the safety of persons or property, or otherwise in violation of or in noncompliance with section 202 of the South Florida Building Code, such sign shall be removed, repaired or replaced as provided therein, if otherwise lawful.

10.4.13.2. Decrepit or dilapidated signs; treatment of supports.

10.4.13.2.1. Signs found to be decrepit or dilapidated (whether or not determined to be unsafe as provided above) shall be removed, repaired, or replaced if otherwise lawful.

10.4.13.2.2. Structural members of signs required to be concealed or otherwise made visually unobtrusive. Structural members of all signs, including supports, shall be covered, painted, and/or designed in such a manner as to be visually unobtrusive.

10.4.13.3. Procedure for removal of signs which are unsafe. The building official may issue to the responsible party in charge of any sign found to be unsafe a written notice. The written notice shall specify the dangerous conditions of the sign, list any sign violation, order the immediate abatement of the unsafe conditions, and require either the repair or removal of the sign within the time specified in the notice by the responsible party. The building official shall serve this notice on the responsible party in accordance with section ____ of the South Florida Building Code and the responsible party may seek review of such decisions in accordance with such section.

10.4.14. Signs advertising establishments, commodities, or services no longer on premises. Signs advertising establishments, commodities, or services previously associated with the premises on which erected, but no longer there or otherwise bearing other obsolete matter, shall be removed within thirty (30) days from the time such activity ceases.

10.4.14.1. Procedure for removal of signs which advertise establishments, commodities, or services no longer on premises or are otherwise obsolete. The City may issue to the responsible party in charge of any sign found to be advertising establishments, commodities, or services no longer on premises or are otherwise obsolete a written notice. The written notice shall specify the obsolete conditions of the sign, list any sign violation, order the immediate abatement of the obsolete condition, and require the removal of the sign within the time specified in the notice by the responsible party. The City shall serve this notice on the responsible party in accordance with Chapter 2, Article X of the City Code and the responsible party may seek review of such decision in accordance with the provisions contained therein.

10.4.15. Variances.

Except as specified in section 10.4.15.1. below, there shall be no variances permitted for any of the sign regulations herein.

10.4.15.1. Permissible variances. Variances for height on freestanding outdoor advertising signs may be granted by the Zoning Board, pursuant to the regulations and limitations set forth in Article 19 of this zoning ordinance, and upon compliance with the following:

1. An application for a height variance for a freestanding outdoor advertising sign may only be submitted, and accepted by the city, if the height variance is necessary due to a government action which renders the sign not visible from the roadway(s) which it was intended to be viewed from; said government action will only be considered a justification for the requested variance if the action occurs after the sign has been legally erected under the provisions of the zoning ordinance in effect at the time the sign was built. A legally erected sign that was legally constructed and not in compliance with the height provisions of the zoning ordinance may not justify the noncompliant height as hardship for a variance request; only a subsequent government action, which physically impedes the visibility of a sign, will be considered a valid justification;

2. Any application for a height variance for a freestanding outdoor advertising sign must be accompanied by line of sight studies from the roadway(s) which such sign is intended to be viewed from; and

3. A finding must be made that the variance be requested is the minimum variance necessary to make such sign visible from the roadway(s) which such sign is intended to be viewed from.

In addition, this section shall not apply to any sign with nonconforming status.

10.5. Zoning District sign regulations.

Unless otherwise specifically permitted within a certain zoning district, signs may not be flashing, animated, revolving or whirling.

10.5.1. CS Conservation Sign Regulations: Temporary signs:

Temporary signs shall be permissible as specified in Section 10.3.2

Permanent signs:

Due to the primary intent of such districts to conserve special environmental features, only identification and directional signs shall be permitted by Class II Special Permit. The purpose of the Class II Special Permit will be to determine and minimize impacts on the natural setting of the conservation district in which the signs are to be placed.

10.5.2. PR Parks, Recreation and Open Space

Sign Regulations:

Temporary signs:

Temporary signs shall be permissible as specified in Section 10.3.2.

Permanent signs: The following permanent signs shall be permissible subject to the limitations indicated:

Only name of facility, identification of accessory establishments and directional signs shall be permissible by Class II Special Permit.

Criteria:

Location of signs: Location of park identification signs shall comply with the visibility clearance standards as set forth in Section 10.4. Signs for identification of accessory establishments shall be located directly on, or adjacent to such establishments.

Size: There shall be no limitation as to the size of park identification signs, however, such signs shall not exceed a reasonable size to identify the park to the population it is intended to serve; neighborhood parks signs shall be unobtrusive and non-illuminated, while regional park signs may be larger and contain sufficient illumination to read the park sign from adjacent right of ways.

Accessory establishments within a park may be allowed identification signs pursuant to a Class II Special Permit in order to determine whether the location, size and design of the sign structure(s) is compatible with the character of the park in which located.

10.5.3. Residential districts

It is the intent of these regulations to protect residential areas from intrusive or over-concentrations of signs that have an overall detrimental effect on living conditions in the city.

10.5.3.1. R-1 Single Family Residential

Sign Regulations:

Temporary Signs:

1. Temporary signs, which include political election signs and real estate signs, shall be allowed subject to the exceptions, limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per residential unit.

2. In connection with active and continuing new construction work in progress: Except for Planned Unit Developments (PUD), construction signs shall not exceed one (1) construction sign, or six (6) square feet in area, for

each lot line adjacent to a street. Such signs shall not be illuminated.

PUD construction signs shall not exceed twenty (20) square feet in area, one (1) for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit as provided in section 10.4. During the process of construction and initial sale or rental within such development, such temporary development signs as authorized above may be allowed by Class I Special Permit only, for periods not exceeding one (1) year, and renewable for one-year terms for not to exceed two (2) additional years. Such signs shall be located at least ten (10) feet in from any property line, and oriented for minimum adverse effects on adjoining or facing residential property. Location shall be further governed by requirements for vision clearance at intersections as set out at section 908.11.

3. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.

Permanent Signs

In connection with each dwelling unit and all other uses:

1. Address signs, not to exceed one (1) for each dwelling unit or other use for each lot line adjacent to a street, or two (2) square feet in area, except as provided below.
2. Window signs which do not exceed one (1) square foot in area limited to one such sign per residential unit.
3. Notice, directional and warning signs, not to exceed one (1) for each dwelling unit or other use for each lot line

adjacent to a street, or two (2) square feet in area, provided that, where such signs are combined with address signs, maximum total area shall not exceed three (3) square feet.

Such signs, if freestanding, shall not exceed three (3) feet in height, be closer than ten (10) feet to any adjacent lot, or be closer than two (2) feet to any street line. Such signs shall not be illuminated.

For signs related to home occupations, see section 906.5(d).

For other uses:

1. In connection with child daycare centers: Not to exceed one (1) identification sign per establishment with a maximum area of two (2) square feet.

2. In connection with subdivisions, developments (including PUDs), neighborhoods or similar areas: Not to exceed one (1) permanent identification sign, or ten (10) square feet in area, per principal entrance. Such signs shall not be illuminated or internally illuminated. Such signs may be located on a perimeter wall or building wall. Signs should respect the architecture of the building and be placed subordinately and harmoniously to the structure.

In connection with places of worship: Freestanding church signs for name and schedule of services shall be allowed provided that the maximum size of such sign shall be fifteen (15) square feet in area; an increase up to forty (40) square feet for such a sign shall be permissible pursuant to a Class I Special Permit upon a demonstration that the increase in sign area is necessary for visibility of the sign by the general public due to the location of the church on the subject property; more specifically, the increase shall be permissible if the sign is located on a street with a

right-of-way greater than fifty (50) feet and a setback in excess of thirty (30) feet that necessitate the increase. A wall sign for the name of the school, not exceeding an additional 20 square feet in area shall also be permitted.

In connection with primary and secondary schools: A freestanding school sign for the name of the school and schedule of school events and calendar shall be allowed provided that the maximum size of such sign shall be fifteen (15) square feet in area; an increase up to forty (40) square feet for such a sign shall be permissible pursuant to a Class I Special Permit upon a demonstration that the increase in sign area is necessary for visibility of the sign by the general public due to the location of the school on the subject property; more specifically, the increase shall be permissible if the sign is located on a street with a right-of-way greater than fifty (50) feet and a setback in excess of thirty (30) feet that necessitate the increase. A wall sign for the name of the school, not exceeding an additional 20 square feet in area shall also be permitted.

10.5.3.2. R-2 Two-Family Residential

Sign Regulations:

Temporary Signs:

1. Temporary signs, which include political election signs and real estate signs, shall be allowed subject to the exceptions, limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per residential unit.
2. In connection with active and continuing new construction work in progress: Except for Planned Unit Developments (PUD), construction signs shall not exceed one (1) construction sign, or six (6) square feet in area, for

each lot line adjacent to a street. Such signs shall not be illuminated.

PUD construction signs shall not exceed twenty (20) square feet in area, one (1) for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit as provided in section 10.4. During the process of construction and initial sale or rental within such development, such temporary development signs as authorized above may be allowed by Class I Special Permit only, for periods not exceeding one (1) year, and renewable for one-year terms not to exceed two (2) additional years. Such signs shall be located at least ten (10) feet in from any property line, and oriented for minimum adverse effects on adjoining or facing residential property. Location shall be further governed by requirements for vision clearance at intersections as set out at section 908.11.

3. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.

Permanent Signs

In connection with each dwelling unit and all other uses:

1. Address signs, not to exceed one (1) for each dwelling unit or other use for each lot line adjacent to a street, or two (2) square feet in area, except as provided below.
2. Window signs which do not exceed one (1) square foot in area limited to one such sign per residential unit.
3. Notice, directional and warning signs, not to exceed one (1) for each dwelling unit or other use for each lot line

adjacent to a street, or two (2) square feet in area, provided that, where such signs are combined with address signs, maximum total area shall not exceed three (3) square feet.

Such signs, if freestanding, shall not exceed three (3) feet in height, be closer than ten (10) feet to any adjacent lot, or be closer than two (2) feet to any street line. Such signs shall not be illuminated.

For signs related to home occupations, see section 906.5(d).

For other uses:

1. In connection with child daycare centers: Not to exceed one (1) identification sign per establishment with a maximum area of two (2) square feet.
2. In connection with subdivisions, developments (including PUDs), neighborhoods or similar areas: Not to exceed one (1) permanent identification sign, or ten (10) square feet in area, per principal entrance. Such signs shall not be illuminated or internally illuminated. Such signs may be located on a perimeter wall or building wall. Signs should respect the architecture of the building and be placed subordinately and harmoniously to the structure.

In connection with places of worship: Freestanding church signs for name and schedule of services shall be allowed provided that the maximum size of such sign shall be fifteen (15) square feet in area; an increase up to forty (40) square feet for such a sign shall be permissible pursuant to a Class I Special Permit upon a demonstration that the increase in sign area is necessary for visibility of the sign by the general public due to the location of the church on the subject property; more specifically, the increase shall

be permissible if the sign is located on a street with a right-of-way greater than fifty (50) feet and a setback in excess of thirty (30) feet that necessitate the increase. A wall sign for the name of the school, not exceeding an additional 20 square feet in area shall also be permitted.

In connection with primary and secondary schools: A freestanding school sign for the name of the school and schedule of school events and calendar shall be allowed provided that the maximum size of such sign shall be fifteen (15) square feet in area; an increase up to forty (40) square feet for such a sign shall be permissible pursuant to a Class I Special Permit upon a demonstration that the increase in sign area is necessary for visibility of the sign by the general public due to the location of the school on the subject property; more specifically, the increase shall be permissible if the sign is located on a street with a right-of-way greater than fifty (50) feet and a setback in excess of thirty (30) feet that necessitate the increase. A wall sign for the name of the school, not exceeding an additional 20 square feet in area shall also be permitted.

10.5.3.3. R-3 Multifamily Medium-Density Residential

Sign Regulations

Temporary Signs:

1. Temporary signs, which include political election signs and real estate signs, shall be allowed subject to the exceptions, limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per street frontage.
2. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit

shall be required for display of decorative flags, bunting, and other decorations related to holidays.

3. Construction: Not to exceed one (1) construction sign, or thirty (30) square feet in area for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit.

In addition, for PUD construction signs, during the process of construction and initial sale or rental within such development, such temporary development signs as authorized above may be allowed by Class I Special Permit only, for periods not exceeding one (1) year, and renewable for one-year terms for not to exceed two (2) additional years. Such signs shall be located at least ten (10) feet in from any property line, and oriented for minimum adverse effects on adjoining or facing residential property. Location shall be further governed by requirements for vision clearance at intersections as set out at section 908.11.

Permanent Signs

In connection with each dwelling unit and all other uses:

1. Address signs, not to exceed one (1) for each dwelling unit or other use for each lot line adjacent to a street, or two (2) square feet in area, except as provided below.

2. Window signs which do not exceed one (1) square foot in area limited to one such sign per residential unit.

3. For each lot line adjacent to a street, one (1) wall sign not exceeding an area of one-half square foot for each linear foot of street frontage, up to a maximum of forty (40) square feet in area, or one (1) projecting sign with

combined surface area not exceeding one-half square foot for each linear foot of street frontage, up to a maximum of forty (40) square feet in area, and one (1) address and/or directional sign, not exceeding an area of ten (10) square feet. Such address and/or directional, notice or warning sign, if freestanding, shall not be closer than six (6) feet to any adjacent lot line or be closer than two (2) feet to any street line.

4. Notice, directional and warning signs, not to exceed one (1) for each dwelling unit or other use for each lot line adjacent to a street, or two (2) square feet in area, provided that, where such signs are combined with address signs, maximum total area shall not exceed three (3) square feet. Address, notice, directional warning signs, if freestanding, shall not exceed three (3) feet in height, be closer than ten (10) feet to any adjacent lot, or be closer than two (2) feet to any street line.

Area of permitted wall signs may be increased two and one-half (2½) square feet for each foot above the first ten (10) feet of building height from grade at the bottom of the wall (averaged if sloping or irregular) to the bottom of the sign.

Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

Home occupations: See section 906.5(d).

In connection with subdivisions, developments (including PUDs), neighborhoods or similar areas: Not to exceed one (1) permanent identification sign, or ten (10) square feet in area, per principal entrance. Such signs shall not be illuminated or internally illuminated. Such signs may be located on a perimeter wall or building wall. Signs should respect the architecture of the building and be placed subordinately and harmoniously to the structure.

In connection with places of worship: Freestanding church signs for name and schedule of services shall be allowed provided that the maximum size of such sign shall be fifteen (15) square feet in area; an increase up to forty (40) square feet for such a sign shall be permissible pursuant to a Class I Special Permit upon a demonstration that the increase in sign area is necessary for visibility of the sign by the general public due to the location of the church on the subject property; more specifically, the increase shall be permissible if the sign is located on a street with a right-of-way greater than fifty (50) feet and a setback in excess of thirty (30) feet that necessitate the increase. A wall sign for the name of the school, not exceeding an additional 20 square feet in area shall also be permitted.

In connection with primary and secondary schools: A freestanding school sign for the name of the school and schedule of school events and calendar shall be allowed provided that the maximum size of such sign shall be fifteen (15) square feet in area; an increase up to forty (40) square feet for such a sign shall be permissible pursuant to a Class I Special Permit upon a demonstration that the increase in sign area is necessary for visibility of the sign by the general public due to the location of the school on

the subject property; more specifically, the increase shall be permissible if the sign is located on a street with a right-of-way greater than fifty (50) feet and a setback in excess of thirty (30) feet that necessitate the increase. A wall sign for the name of the school, not exceeding an additional 20 square feet in area shall also be permitted.

10.5.3.4. R-4 Multifamily High-Density Residential

Sign Regulations

Temporary Signs:

1. Temporary signs, which include political election signs and real estate signs, shall be allowed subject to the exceptions, limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per street frontage.
2. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.
3. Construction: Not to exceed one (1) construction sign, or thirty (30) square feet in area for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit.

In addition, for PUD construction signs, during the process of construction and initial sale or rental within such development, such temporary development signs as authorized above may be allowed by Class I Special Permit only, for periods not exceeding one (1) year, and renewable for one-year terms for not to exceed two (2) additional years. Such signs shall be located at least ten (10) feet in

from any property line, and oriented for minimum adverse effects on adjoining or facing residential property. Location shall be further governed by requirements for vision clearance at intersections as set out at section 908.11.

Permanent Signs

In connection with each dwelling unit and all other uses:

1. Address signs, not to exceed one (1) for each dwelling unit or other use for each lot line adjacent to a street, or two (2) square feet in area, except as provided below.
2. Window signs which do not exceed one (1) square foot in area limited to one such sign per residential unit.
3. For each lot line adjacent to a street, one (1) wall sign not exceeding an area of one-half square foot for each linear foot of street frontage, up to a maximum of forty (40) square feet in area, or one (1) projecting sign with combined surface area not exceeding one-half square foot for each linear foot of street frontage, up to a maximum of forty (40) square feet in area, and one (1) address and/or directional sign, not exceeding an area of ten (10) square feet. Such address and/or directional, notice or warning sign, if freestanding, shall not be closer than six (6) feet to any adjacent lot line or be closer than two (2) feet to any street line.
4. Notice, directional and warning signs, not to exceed one (1) for each dwelling unit or other use for each lot line adjacent to a street or two (2) square feet in area, provided that, where such signs are combined with address signs, maximum total area shall not exceed three (3) square feet. Address, notice, directional warning signs, if freestanding, shall not exceed three (3) feet in height, be

closer than ten (10) feet to any adjacent lot, or be closer than two (2) feet to any street line.

Area of permitted wall signs may be increased two and one-half (2½) square feet for each foot above the first ten (10) feet of building height from grade at the bottom of the wall (averaged if sloping or irregular) to the bottom of the sign.

Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

Home occupations: See section 906.5(d).

In connection with subdivisions, developments (including PUDs), neighborhoods or similar areas: Not to exceed one (1) permanent identification sign, or ten (10) square feet in area, per principal entrance. Such signs shall not be illuminated or internally illuminated. Such signs may be located on a perimeter wall or building wall. Signs should respect the architecture of the building and be placed subordinately and harmoniously to the structure.

In connection with places of worship: Freestanding church signs for name and schedule of services shall be allowed provided that the maximum size of such sign shall be fifteen (15) square feet in area; an increase up to forty (40) square feet for such a sign shall be permissible pursuant to a Class I Special Permit upon a demonstration that the increase in sign area is necessary for visibility of the sign by the general public due to the location of the church on

the subject property; more specifically, the increase shall be permissible if the sign is located on a street with a right-of-way greater than fifty (50) feet and a setback in excess of thirty (30) feet that necessitate the increase. A wall sign for the name of the school, not exceeding an additional 20 square feet in area shall also be permitted.

In connection with primary and secondary schools: A freestanding school sign for the name of the school and schedule of school events and calendar shall be allowed provided that the maximum size of such sign shall be fifteen (15) square feet in area; an increase up to forty (40) square feet for such a sign shall be permissible pursuant to a Class I Special Permit upon a demonstration that the increase in sign area is necessary for visibility of the sign by the general public due to the location of the school on the subject property; more specifically, the increase shall be permissible if the sign is located on a street with a right-of-way greater than fifty (50) feet and a setback in excess of thirty (30) feet that necessitate the increase. A wall sign for the name of the school, not exceeding an additional 20 square feet in area shall also be permitted.

Hotels:

Signs for hotel uses shall be subject to Class II Special Permit. The Class II Special Permit shall give due consideration to the orientation of said signs to ensure that they are oriented away from adjacent residential uses so as to minimize the potential adverse effects resulting from lighting spillover.

Signage for hotels shall conform to the following guidelines:

1. Directional signs, which may be combined with address signs but shall bear no advertising matter, may be

erected to guide toward entrances, exits, or parking areas, but shall not exceed five (5) square feet in surface area. Such signs shall be permanent, weather resisting fixtures well anchored to the ground so as not to be readily removable; said signs shall stand alone and not be attached to other fixtures or plantings.

2. Ground or monument signs, excluding pole signs, limited to one (1) sign structure with no more than two (2) sign surfaces neither of which shall exceed forty (40) square feet in sign area. One (1) such sign shall be allowed for each one hundred (100) feet of street frontage. Such signs shall consist of a solid and opaque surface which shall contain all lettering and/or graphic symbols, none of which shall be internally illuminated. Maximum height limitation shall be ten (10) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that upon finding that there are unusual or undulating site conditions the planning and zoning director, through the Class II Special Permit, may increase the measurement of the crown by up to five (5) feet to accommodate these conditions.

3. Wall signs, limited to one (1) square foot of sign area for each lineal foot of wall fronting on a street, up to a maximum of fifty (50) square feet per sign. Not more than three (3) such signs shall be permitted per hotel with no more than one sign per wall. No signs will be permitted on frontages which face residentially zoned property within a radius of one thousand (1,000) feet.

10.5.4. Nonresidential Districts

For all non-residential districts, temporary signs associated with community-wide celebrations, conventions or

commemorations shall be allowed when authorized by the City Commission and subject to the limitations set forth in Section 10.3.2.1

10.5.4.1. Office Sign regulations:

Temporary Signs:

1. Temporary signs, which include political election signs and real estate signs, shall be allowed subject to the exceptions, limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per each street frontage.
2. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.
3. Construction: Not to exceed one (1) construction sign, or thirty (30) square feet in area for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit.

In addition, for PUD construction signs, during the process of construction and initial sale or rental within such development, such temporary development signs as authorized above may be allowed by Class I Special Permit only, for periods not exceeding one (1) year, and renewable for one-year terms for not to exceed two (2) additional years. Such signs shall be located at least ten (10) feet in from any property line, and oriented for minimum adverse effects on adjoining or facing residential property. Location shall be further governed by requirements for vision clearance at intersections as set out at section 908.11.

Permanent Signs

Except as otherwise provided, such signs may be illuminated but shall not be animated or flashing.

In connection with each dwelling unit and all other uses:

1. Address signs, not to exceed one (1) for each dwelling unit or other use for each lot line adjacent to a street, or two (2) square feet in area, except as provided below.
2. Window signs which do not exceed one (1) square foot in area limited to one such sign per residential unit.
3. For each lot line adjacent to a street, one (1) wall sign not exceeding an area of one-half square foot for each linear foot of street frontage, up to a maximum of forty (40) square feet in area, or one (1) projecting sign with combined surface area not exceeding one-half square foot for each linear foot street frontage, up to a maximum of forty (40) square feet an area, and one (1) address and/or directional sign, not exceeding an area of ten (10) square feet. Such address and/or directional, notice or warning sign, if freestanding, shall not be closer than six (6) feet to any adjacent lot line or be closer than two (2) feet to any street line.
4. Notice, directional and warning signs, not to exceed one (1) for each dwelling unit or other use for each lot line adjacent to a street, or two (2) square feet in area, provided that, where such signs are combined with address signs, maximum total area shall not exceed three (3) square feet. Address, notice, directional warning signs, if freestanding, shall not exceed three (3) feet in height, be closer than ten (10) feet to any adjacent lot, or be closer than two (2) feet to any street line.

Area of permitted wall signs may be increased two and one-half (2½) square feet for each foot above the first ten (10) feet of building height from grade at the bottom of the wall (averaged if sloping or irregular) to the bottom of the sign.

Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

Home occupations: See section 906.5(d).

In connection with subdivisions, developments (including PUDs), neighborhoods or similar areas: Not to exceed one (1) permanent identification sign, or ten (10) square feet in area, per principal entrance. Such signs shall not be illuminated or internally illuminated. Such signs may be located on a perimeter wall or building wall. Signs should respect the architecture of the building and be placed subordinately and harmoniously to the structure.

In connection with places of worship: Freestanding church signs for name and schedule of services shall be allowed provided that the maximum size of such sign shall be fifteen (15) square feet in area; an increase up to forty (40) square feet for such a sign shall be permissible pursuant to a Class I Special Permit upon a demonstration that the increase in sign area is necessary for visibility of the sign by the general public due to the location of the church on the subject property; more specifically, the increase shall be permissible if the sign is located on a street with a right-of-way greater than fifty (50) feet and a setback in

excess of thirty (30) feet that necessitate the increase. A wall sign for the name of the school, not exceeding an additional 20 square feet in area shall also be permitted.

In connection with primary and secondary schools: A freestanding school sign for the name of the school and schedule of school events and calendar shall be allowed provided that the maximum size of such sign shall be fifteen (15) square feet in area; an increase up to forty (40) square feet for such a sign shall be permissible pursuant to a Class I Special Permit upon a demonstration that the increase in sign area is necessary for visibility of the sign by the general public due to the location of the school on the subject property; more specifically, the increase shall be permissible if the sign is located on a street with a right-of-way greater than fifty (50) feet and a setback in excess of thirty (30) feet that necessitate the increase. A wall sign for the name of the school, not exceeding an additional 20 square feet in area shall also be permitted.

Hotels:

Signs for hotel uses shall be subject to Class II Special Permit. The Class II Special Permit shall give due consideration to the orientation of said signs to ensure that they are oriented away from adjacent residential uses so as to minimize the potential adverse effects resulting from lighting spillover.

Signage for hotels shall conform to the following guidelines:

1. Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide toward entrances, exits, or parking areas, but shall not exceed five (5) square feet in surface area.

Such signs shall be permanent, weather resisting fixtures well anchored to the ground so as not to be readily removable; said signs shall stand alone and not be attached to other fixtures or plantings.

2. Ground or monument signs, excluding pole signs, limited to one (1) sign structure with no more than two (2) sign surfaces neither of which shall exceed forty (40) square feet in sign area. One (1) such sign shall be allowed for each one hundred (100) feet of street frontage. Such signs shall consist of a solid and opaque surface which shall contain all lettering and/or graphic symbols, none of which shall be internally illuminated. Maximum height limitation shall be ten (10) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that upon finding that there are unusual or undulating site conditions the planning and zoning director, through the Class II Special Permit, may increase the measurement of the crown by up to five (5) feet to accommodate these conditions.

3. Wall signs, limited to one (1) square foot of sign area for each lineal foot of wall fronting on a street, up to a maximum of fifty (50) square feet per sign. Not more than three (3) such signs shall be permitted per hotel with no more than one sign per wall. No signs will be permitted on frontages which face residentially zoned property within a radius of one thousand (1,000) feet.

Signs for Office buildings shall conform to the following:

Building identification sign: Building identification signs erected with their lowest portions more than fifteen (15) feet above grade shall be limited to those identifying the building and the nature of the establishments it contains.

Only one (1) such sign, not exceeding fifty (50) square feet in area, for every one hundred fifty (150) feet of length of building wall shall be permitted for each face of the building oriented toward the street.

Directory board sign: In the case of multi level office buildings, a directory board sign, which identifies office tenants within the building, shall be permitted as follows:

1. If mounted on a wall, such directory board sign shall be placed within visibility of the main entrance to the office building and shall not exceed an area of 20 square feet;
2. If freestanding, such directory board sign shall not be closer than six (6) feet to any adjacent lot or closer than two (2) feet to any street line and shall not exceed an area of 20 square feet; such signs shall be limited to monument type signs, pole signs shall not be permissible.

Ground floor establishment signs: In addition to the signs listed above, each individual establishment on the ground floor, with ground floor street frontage and separate entrances on the ground floor that open toward such street frontages, shall be allowed the following signs:

- a) A wall sign not to exceed 20 square feet in area;
- b) Window signs not to exceed twenty (20) percent of the glass area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

c) An awning sign, limited to the skirt or bottom edge of the awning, letters, emblems, logos or symbols not to exceed 6 inches in height.

d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas, but shall not exceed five (5) square feet in surface area; such address and/or directional, notice or warning signs, if freestanding, shall not be closer than six (6) feet to any adjacent lot or closer than two (2) feet to any street line.

10.5.4.2. G/I Government and Institutional.

Sign regulations:

Temporary Signs:

1. Temporary signs, which include political election signs and real estate signs, shall be allowed subject to the exceptions, limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per each street frontage.

2. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.

3. Construction: Not to exceed one (1) construction sign, or thirty (30) square feet in area for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit.

Permanent signs:

All permanent signs shall be subject to Class II Special Permit procedures and review as set forth in Articles 13 and 15 of this zoning ordinance; as well as the following requirements and limitations.

Except as otherwise provided, such signs may be illuminated but shall not be animated or flashing.

1. Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas, but shall not exceed five (5) square feet in surface area.
2. Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8, shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area, for each street frontage of each establishment or for each fifty (50) feet of street frontage. Permitted sign area may be cumulative for establishments with more than 150 feet of street frontage, but in such cases, no sign surface shall exceed one hundred (100) square feet in area. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the planning and zoning director, through the Class II Special Permit, may increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions upon finding that such conditions exist.

3. When a single establishment takes up an entire building, wall signs shall be limited to one and one half (1½) square feet of sign area for each lineal foot of wall fronting on a street; there shall be no more than one wall sign for each 150 linear feet along a street front, with no more than 3 total on any wall. Walls that do not have street frontage may contain no more than one wall sign each, not to exceed 50 square feet in area for each sign, but aggregate area shall be included as part of aggregate wall sign area as limited herein.

4. Wall signs for a single building with more than one ground floor establishment: each individual establishment on the ground floor, with ground floor street frontage and separate entrances on the ground floor that open toward such street frontages, shall be allowed the following signs:

- a) A wall sign not to exceed 20 square feet in area;
- b) Window signs not to exceed twenty (20) percent of the glass area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.
- c) An awning sign, limited to the skirt or bottom edge of the awning; letters, emblems, logos or symbols not to exceed 6 inches in height.
- d) A hanging (as in under an awning or similar) sign not exceed 3 square feet in area.

5. Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these

regulations, out aggregate area shall be included as part of aggregate wall sign area, as limited above.

6. Projecting signs (other than under awning signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area; the aggregate area shall be included as part of aggregate wall sign area, as limited above.

7. Notwithstanding the provisions set forth herein, where there are commercial, service or retail uses in a structure which may not be seen directly from the public right-of-way, but have direct access from a courtyard or open space which abuts a primary pedestrian pathway, a free-standing directional sign containing the names of all the establishments concealed from direct view may be erected which may be combined with a location map of the complex. Not more than one (1) such sign, not exceeding twenty (20) square feet in area, shall be erected per entrance, exit, or parking area.

8. Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

10.5.4.3. C-1 Restricted Commercial.

Sign Regulations:

Temporary signs:

1. Temporary signs, which include political election signs and real estate signs, shall be allowed subject to the

exceptions, limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per each street frontage.

2. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.

3. Construction: Not to exceed one (1) construction sign, or thirty (30) square feet in area for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit.

Permanent signs:

Except as otherwise provided, such signs may be illuminated but shall not be animated or flashing.

1. For a single establishment within a building:

Wall signs for a single establishment within a building: When a single establishment takes up an entire building, wall signs shall be limited to one and one half (1½) square feet of sign area for each lineal foot of wall fronting on a street; there shall be no more than one wall sign for each 150 linear feet along a street front, with no more than 3 total on any wall. Walls that do not have street frontage may contain no more than one wall sign, each, not to exceed 50 square feet in area, but aggregate area shall be included as part of aggregate wall sign area as limited herein.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these

regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Projecting signs (other than under awning signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area; however, that such permissible sign area may be increased to eighty (80) square feet where maximum projection from the face of the building is two (2) feet or less, sixty (60) square feet where projection is more than two (2) and less than three (3) feet, and forty (40) square feet where projection is at least three (3), but not more than four (4) feet – the aggregate area of such signs shall be included as part of aggregate wall sign area, as limited above.

Ground/freestanding signs.

Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8, shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each one hundred (100) feet of street frontage. Permitted sign area may be cumulative, but no sign surface shall exceed one hundred (100) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the planning and zoning director may, pursuant to a Class II Special Permit, increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

For Outdoor advertising business signs as accessory uses to principal commercial uses only, a Class II Special Permit shall be required, and such signs shall further be limited as follows:

a) Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;

b) Signs shall be limited to one sign per structure only;

c) Sign area shall be limited to no greater than thirty-two (32) square feet;

d) Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused from the total permissible wall sign area for the structure in question. (not counting the 20 sq. ft. of wall signs allowable per establishment) and

e) Such signs may either be painted or mounted onto the subject wall.

2. For a single building with more than one establishment opening up to the outdoors:

Wall signs: The building in which the establishments are located shall be allowed one (1) wall sign, limited to a building identification sign, not exceeding fifty (50) square feet in area, for each face of the building oriented toward

the street; and in addition, each individual establishment within a building, that has a separate entrance to the outdoors (available to the general public, whether on the ground floor or on an upper level), and a minimum frontage of 20 linear feet to the outdoors, shall be allowed the following signs:

- a) A wall sign not to exceed 20 square feet in area;
- b) Window signs not to exceed twenty (20) percent of the class area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.
- c) An awning sign, limited to the skirt or bottom edge of the awning; letters, emblems, logos or symbols not to exceed 6 inches in height.
- d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Projecting signs (other than under awning signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area; however, that such permissible sign area may be increased to eighty (80) square feet where maximum projection from the face of the building is two (2) feet or less, sixty (60) square feet where projection is more than two (2) and less than three (3) feet, and forty

(40) square feet where projection is at least three (3), but not more than four (4) feet – the aggregate area of such signs shall be included as part of aggregate wall sign area, as limited above.

Ground/freestanding signs.

Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8, shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each one hundred (100) feet of street frontage. Permitted sign area may be cumulative, but no sign surface shall exceed one hundred (100) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the planning and zoning director may, pursuant to a Class II Special Permit, increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

For Outdoor advertising business signs as accessory uses to principal commercial uses only, a Class II Special Permit shall be required, and such signs shall further be limited as follows:

a) Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;

b) Signs shall be limited to one sign per structure only;

c) Sign area shall be limited to no greater than thirty-two (32) square feet;

d) Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused from the total permissible wall sign area for the structure in question. (not counting the 20 sq. ft. of wall signs allowable per establishment) and

e) Such signs may either be painted or mounted onto the subject wall.

3. Notwithstanding the provisions set forth herein, where there are commercial, service or retail uses in a structure which may not be seen directly from the public right-of-way, but have direct access from a courtyard or open space which abuts a primary pedestrian pathway, a free-standing directional sign containing the names of all the establishments concealed from direct view may be erected which may be combined with a location map of the complex. Not more than one (1) such sign, not exceeding twenty (20) square feet in area, shall be erected per entrance, exit, or parking area.

4. Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

10.5.4.4. C-2 Liberal Commercial

Temporary Signs:

1. Temporary signs, which include political election signs and real estate signs, shall be allowed subject to the exceptions, limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per each street frontage.
2. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.
3. Construction: Not to exceed one (1) construction sign, or thirty (30) square feet in area for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit.

Permanent signs:

Except as otherwise provided, such signs may be illuminated but shall not be animated or flashing.

1. For a single establishment within a building:

Wall signs, limited to two and one-half (2½) square feet of sign area for each lineal foot of wall fronting on a street if any portion of such sign is below fifteen (15) feet above grade. For each foot that the lowest portion of such sign exceeds twenty-five (25) feet, permitted sign area shall be increased one (1) percent up to a maximum height of fifty (50) feet above grade. Not to exceed three (3) such signs shall be permitted for each frontage on

which area calculations are based, but one (1) of these may be mounted on a side wall.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Projecting signs (other than under awning signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area; however, that such permissible sign area may be increased to eighty (80) square feet where maximum projection from the face of the building is two (2) feet or less, sixty (60) square feet where projection is more than two (2) and less than three (3) feet, and forty (40) square feet where projection is at least three (3), but not more than four (4) feet - the aggregate area of such signs shall be included as part of aggregate wall sign area, as limited above.

Ground/freestanding signs.

Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8, shall be limited to one (1) sign and forty (40) square feet of sign area (for each face) for each business, or for each one hundred fifty (150) feet of street frontage. Permitted sign area may be used in less than the maximum permitted number of such signs, but no sign shall exceed two hundred (200) square feet in area for each face. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways,

provided, however, that the planning and zoning director, through a Class II Special Permit, may increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding ten (10) square feet in area, shall be erected per entrance, exit, or parking area.

For Outdoor advertising business signs as accessory uses to principal commercial uses only, a Class II Special Permit shall be required, and such signs shall further be limited as follows:

- a) Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;
- b) Signs shall be limited to one sign per structure only;
- c) Sign area shall be limited to no greater than thirty-two (32) square feet;
- d) Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of plan area unused from the total permissible wall sign area for the structure in question (not counting the 20 sq. ft. of wall signs allowable per establishment) and
- e) Such signs may either be painted or mounted onto the subject wall.

2. For a single building with more than one establishment opening up to the outdoors:

Wall signs: The building in which the establishments are located shall be allowed one (1) wall sign, limited to a building identification sign, not exceeding fifty (50) square feet in area, for each face of the building oriented toward the street; and in addition, each individual establishment within a building, that has a separate entrance to the outdoors (available to the general public, whether on the ground floor or on an upper level), and a minimum frontage of 20 linear feet to the outdoors, shall be allowed the following signs:

- a) A wall sign not to exceed 20 square feet in area;
- b) Window signs not to exceed twenty (20) percent of the glass area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.
- c) An awning sign, limited to the skirt or bottom edge of the awning, letters, emblems, logos or symbols not to exceed 6 inches in height.
- d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Projecting signs (other than under awning signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area; however, that such permissible sign area may be increased to eighty (80) square feet where maximum projection from the face of the building is two (2) feet or less, sixty (60) square feet where projection is more than two (2) and less than three (3) feet, and forty (40) square feet where projection is at least three (3), but not more than four (4) feet – the aggregate area of such signs shall be included as part of aggregate wall sign area, as limited above.

Ground/freestanding signs.

Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8, shall be limited to one (1) sign and forty (40) square feet of sign area (for each face) for each business, or for each one hundred fifty (150) feet of street frontage. Permitted sign area may be used in less than the maximum permitted number of such signs, but no sign shall exceed two hundred (200) square feet in area for each face. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the planning and zoning director, through a Class II Special Permit, may increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected

to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding ten (10) square feet in area, shall be erected per entrance, exit, or parking area.

For Outdoor advertising business signs as accessory uses to principal commercial uses only, a Class II Special Permit shall be required, and such signs shall further be limited as follows:

a) Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;

b) Signs shall be limited to one sign per structure only;

c) Sign area shall be limited to no greater than thirty-two (32) square feet;

d) Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused from the total permissible wall sign area for the structure in question. (not counting the 20 sq. ft. of wall signs allowable per establishment) and

e) Such signs may either be painted or mounted onto the subject wall.

3) Notwithstanding the provisions set forth herein, where there are commercial, service or retail uses in a structure which may not be seen directly from the public right-of-way, but have direct access from a courtyard or open space which abuts a primary pedestrian pathway, a free-standing directional sign containing the names of all the establishments concealed from direct view may be erected which may be combined with a location map of the complex. Not more than one (1) such sign, not exceeding

twenty (20) square feet in area, shall be erected per entrance, exit, or parking area.

4) Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

In addition, freestanding outdoor advertising business signs shall be permissible subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8 of this zoning ordinance.

10.5.4.5. CBD Central Business District Commercial.

Sign Regulations:

Temporary Signs:

1. Temporary signs, including political election signs and real estate signs, shall be allowed subject to the exceptions, limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per each street frontage.

2. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.

3. Construction: Not to exceed one (1) construction sign, or thirty (30) square feet in area for each lot line adjacent to a street. Development signs shall not be permitted

except in conjunction with such construction signs or by Class I Special Permit.

Permanent signs:

1. For a single establishment within a building:

Wall signs for a single establishment within a building: When a single establishment takes up an entire building, wall signs shall be limited to one and one half (1½) square feet of sign area for each lineal foot of wall fronting on a street; there shall be no more than one wall sign for each 150 linear feet along a street front, with no more than 3 total on any wall. Walls that do not have street frontage may contain no more than one wall sign each, not to exceed 50 square feet in area, but aggregate area shall be included as part of aggregate wall sign area as limited herein.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Projecting signs (other than hanging, as in under awning or canopy, signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed twenty-five (25) square feet in sign area.

Ground/freestanding signs.

Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8, shall be limited to one (1) sign structure with no more than two (2) sign surfaces per parallel street frontage, neither of which shall exceed forty

(40) square feet in sign area, for each establishment or for each fifty (50) feet of street frontage. Permitted sign area shall be cumulative, but no sign surface shall exceed eighty (80) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the planning and zoning director, through a Class II Special Permit, may increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area shall be erected per entrance, exit, or parking area.

For Outdoor advertising business signs as accessory uses to principal commercial uses only, a Class II Special Permit shall be required, and such signs shall further be limited as follows:

- a) Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;
- b) Signs shall be limited to one sign per structure only;
- c) Sign area shall be limited to no greater than thirty-two (32) square feet;
- d) Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused, from the total permissible wall sign

area for the structure in question. (not counting the 20 sq. ft. of wall signs allowable per establishment) and

e) Such signs may either be painted or mounted onto the subject wall.

2. For a single building with more than one establishment opening up to the outdoors:

Wall signs: The building in which the establishments are located shall be allowed one (1) wall sign, limited to a building identification sign, not exceeding fifty (50) square feet in area, for each face of the building oriented toward the street; and in addition, each individual establishment within a building, that has a separate entrance to the outdoors (available to the general public, whether on the ground floor or on an upper level), and a minimum frontage of 20 linear feet to the outdoors, shall be allowed the following signs:

a) A wall sign not to exceed 20 square feet in area;

b) Window signs not to exceed twenty (20) percent of the glass area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

c) An awning sign, limited to the skirt or bottom edge of the awning; letters, emblems, logos or symbols not to exceed 6 inches in height.

d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Projecting signs (other than hanging, as in under awning or canopy, signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed twenty-five (25) square feet in sign area.

Ground/freestanding signs.

Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8, shall be limited to one (1) sign structure with no more than two (2) sign surfaces per parallel street frontage, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each fifty (50) feet of street frontage. Permitted sign area shall be cumulative, but no sign surface shall exceed eighty (80) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the planning and zoning director, through a Class II Special Permit, may increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more

than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

For Outdoor advertising business signs as accessory uses to principal commercial uses only, a Class II Special Permit shall be required, and such signs shall further be limited as follows:

a) Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;

b) Signs shall be limited to one sign per structure only;

c) Sign area shall be limited to no greater than thirty-two (32) square feet;

d) Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused from the total permissible wall sign area for the structure in question. (not counting the 20 sq. ft. of wall signs allowable per establishment) and

e) Such signs may either be painted or mounted onto the subject wall.

3. Notwithstanding the provisions set forth herein, where there are commercial, service or retail uses in a structure which may not be seen directly from the public right-of-way, but have direct access from a courtyard or open space which abuts a primary pedestrian pathway, a free-standing directional sign containing the names of all the establishments concealed from direct view may be erected which may be combined with a location map of the complex. Not more than one (1) such sign, not exceeding twenty (20) square feet in area, shall be erected per entrance, exit, or parking area.

4. Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

10.5.4.6. I Industrial.

Sign Regulations:

Temporary Signs:

1. Temporary signs, including political election signs and real estate signs, shall be allowed subject to the exceptions, limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per each street frontage.

2. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.

3. Construction: Not to exceed one (1) construction sign, or thirty (30) square feet in area for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit.

Permanent signs:

Except as otherwise provided, such signs may be illuminated but shall not be animated or flashing.

1. For a single establishment within a building:

Wall signs, limited to two and one-half (2½) square feet of sign area for each lineal foot of wall fronting on a street if any portion of such sign is below fifteen (15) feet above grade. For each foot that the lowest portion of such sign exceeds twenty-five (25) feet, permitted sign area shall be increased one (1) percent up to a maximum height of fifty (50) feet above grade. Not to exceed three (3) such signs shall be permitted for each frontage on which area calculations are based, but one (1) of these may be mounted on a side wall.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Projecting signs (other than under awning signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area; however, that such permissible sign area may be increased to eighty (80) square feet where maximum projection from the face of the building is two (2) feet or less, sixty (60) square feet where projection is more than two (2) and less than three (3) feet, and forty (40) square feet where projection is at least three (3), but not more than four (4) feet – the aggregate area of such signs shall be included as part of aggregate wall sign area, as limited above.

Ground/freestanding signs.

Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in

Sections 10.4.5 and 10.8, shall be limited to one (1) sign and forty (40) square feet of sign area (for each face) for each business, or for each one hundred fifty (150) feet of street frontage. Permitted sign area may be used in less than the maximum permitted number of such signs, but no sign shall exceed two hundred (200) square feet in area for each face. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the planning and zoning director, through a Class II Special Permit, may increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding ten (10) square feet in area, shall be erected per entrance, exit, or parking area.

For Outdoor advertising business signs as accessory uses to principal commercial uses only, a Class II Special Permit shall be required, and such signs shall further be limited as follows:

- a) Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;
- b) Signs shall be limited to one sign per structure only;
- c) Sign area shall be limited to no greater than thirty-two (32) square feet;

d) Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused from the total permissible wall sign area for the structure in question. (not counting the 20 sq. ft. of wall signs allowable per establishment); and

e) Such signs may either be painted or mounted onto the subject wall.

2. For a single building with more than one establishment opening up to the outdoors:

Wall signs: The building in which the establishments are located shall be allowed one (1) wall sign, limited to a building identification sign, not exceeding fifty (50) square feet in area, for each face of the building oriented toward the street; and in addition, each individual establishment within a building, that has a separate entrance to the outdoors (available to the general public, whether on the ground floor or on an upper level), and a minimum frontage of 20 linear feet to the outdoors, shall be allowed the following signs:

a) A wall sign not to exceed 20 square feet in area;

b) Window signs not to exceed twenty (20) percent of the glass area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

c) An awning sign, limited to the skirt or bottom edge of the awning; letters, emblems, logos or symbols not to exceed 6 inches in height.

d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Projecting signs (other than under awning signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area; however, that such permissible sign area may be increased to eighty (80) square feet where maximum projection from the face of the building is two (2) feet or less, sixty (60) square feet where projection is more than two (2) and less than three (3) feet, and forty (40) square feet where projection is at least three (3), but not more than four (4) feet – the aggregate area of such signs shall be included as part of aggregate wall sign area, as limited above.

Ground/freestanding signs.

Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8, shall be limited to one (1) sign and forty (40) square feet of sign area (for each face) for each business, or for each one hundred fifty (150) feet of street frontage. Permitted sign area may be used in less than the maximum permitted number of such signs, but no sign shall exceed two hundred (200) square feet in area for each face. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways,

provided, however, that the planning and zoning director, through a Class II Special Permit, may increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding ten (10) square feet in area, shall be erected per entrance, exit, or parking area.

For Outdoor advertising business signs as accessory uses to principal commercial uses only, a Class II Special Permit shall be required, and such signs shall further be limited as follows:

- a) Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;
- b) Signs shall be limited to one sign per structure only;
- c) Sign area shall be limited to no greater than thirty-two (32) square feet;
- d) Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused from the total permissible wall sign area for the structure in question. (not counting the 20 sq. ft. of wall signs allowable per establishment) and
- e) Such signs may either be painted or mounted onto the subject wall.

3) Notwithstanding the provisions set forth herein, where there are commercial, service or retail uses in a structure which may not be seen directly from the public right-of-way, but have direct access from a courtyard or open space which abuts a primary pedestrian pathway, a free-standing directional sign containing the names of all the establishments concealed from direct view may be erected which may be combined with a location map of the complex. Not more than one (1) such sign, not exceeding twenty (20) square feet in area, shall be erected per entrance, exit, or parking area.

4) Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

In addition, freestanding outdoor advertising business signs shall be permissible subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8 of this zoning ordinance.

10.6. Special Districts

10.6.1. Class II required. A Class II Special Permit shall be required for all signs (except for those exempt pursuant to Section 10.3.) located within the following Special Districts:

SD-1 Martin Luther King Boulevard Commercial District

SD-2 Coconut Grove Central Commercial District

SD-3 Coconut Grove Major Streets Overlay District

SD-4 Waterfront Industrial District

SD-5 Brickell Avenue Area Residential-Office District

SD-6, 6.1 Central Commercial-Residential Districts

SD-7 Central Brickell Rapid Transit Commercial-Residential Districts

SD-8 Design Plaza Commercial-Residential District

SD-9 Biscayne Boulevard North Overlay District

SD-11 Coconut Grove Rapid Transit District

SD-13 S.W. 27th Avenue Gateway District

SD-14, 14.1, 14.2 Latin Quarter Commercial-Residential, and Residential Districts

SD-15 River Quadrant Mixed-Use District

SD-16, 16.1, 16.2 Southeast Overtown-Park West Commercial-Residential Districts

SD-17 South Bay Shore Drive Overlay District

SD-20 Edgewater Overlay District

SD-22 Florida Avenue Special District

SD-23 Coral Way Special Overlay District

SD-25 SW 8th Street Special Overlay District

10.6.2. Certificate of compliance in lieu of Class II allowed. Wherever a Class II Special Permit is required for signs within the special zoning districts listed in Section 10.6.1., a certificate of compliance in lieu of a Class II Special Permit may be allowed if the proposed signage complies with established and adopted guides and standards for the special district in which such signs will be located.

10.6.3. Schedule of special district sign regulations:

For all Special Overlay Districts not specifically indicated herein, sign regulations shall be as for the underlying district.

Unless otherwise indicated for a specific special district, signs may be illuminated, but shall not be animated or flashing.

10.6.3.1. SD-1 Martin Luther King Boulevard Commercial District:

This district is of special and substantial public interest because of the need to develop and redevelop in a manner improving amenity, efficiency and security. These regulations are intended to encourage concentrations of commercial and service facilities at intersections of arterial streets, encourage residential development above such facilities and in areas away from such intersections and to provide the development and design opportunities inherent in larger site areas.

Sign Regulations:

Temporary Signs:

1. Temporary signs, including political election signs and real estate signs, shall be allowed subject to the exceptions, limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per each street frontage.
2. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.
3. Construction: Not to exceed one (1) construction sign, or thirty (30) square feet in area for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit.

Permanent signs:

1. For a single establishment within a building:

Wall signs for a single establishment within a building: When a single establishment takes up an entire building, wall signs shall be limited to one and one half (1½) square feet of sign area for each lineal foot of wall fronting on a street; there shall be no more than one wall sign for each 150 linear feet along a street front, with no more than 3 total on any wall. Walls that do not have street frontage may contain no more than one wall sign each, not to exceed 50 square feet in area, but aggregate area shall be included as part of aggregate wall sign area as limited herein.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Projecting signs (other than hanging signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area; however, that such permissible sign area may be increased to eighty (80) square feet where maximum projection from the face of the building is two (2) feet or less, sixty (60) square feet where projection is more than two (2) and less than three (3) feet, and forty (40) square feet where projection is at least three (3), but not more than four (4) feet – the aggregate area of such signs shall be included as part of aggregate wall sign area, as limited above.

Ground/freestanding signs.

Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8, shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each one hundred (100) feet of street frontage. Permitted sign area may be cumulative, but no sign surface shall exceed one hundred (100) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the planning and zoning director may, pursuant to a Class II Special Permit, increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

For Outdoor advertising business signs as accessory uses to principal commercial uses only, a Class II Special Permit shall be required, and such signs shall further be limited as follows:

a) Signs shall be wall mounted only on side walls of the existing Principal commercial structure and shall not be freestanding;

b) Signs shall be limited to one sign Per structure only;

c) Sign area shall be limited to no greater than thirty-two (32) square feet;

d) Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused from the total Permissible wall sign area for the structure in question. (not counting the 20 sq. ft. of wall signs allowable per establishment); and

e) Such signs may either be painted or mounted onto the subject wall.

2. For a single building with more than one establishment opening up to the outdoors:

Wall signs: The building in which the establishments are located shall be allowed one (1) wall sign, limited to a building identification sign, not exceeding fifty (50) square feet in area, for each face of the building oriented toward the street; and in addition, each individual establishment within a building, that has a separate entrance to the outdoors (available to the general public, whether on the ground floor or on an upper level), and a minimum frontage of 20 linear feet to the outdoors, shall be allowed the following signs:

a) A wall sign not to exceed 20 square feet in area;

b) Window signs not to exceed twenty (20) percent of the glass area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

c) An awning sign, limited to the skirt or bottom edge of the awning; letters, emblems, logos or symbols not to exceed 6 inches in height.

d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Projecting signs (other than hanging signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area; however, that such permissible sign area may be increased to eighty (80) square feet where maximum projection from the face of the building is two (2) feet or less, sixty (60) square feet where projection is more than two (2) and less than three (3) feet, and forty (40) square feet where projection is at least three (3), but not more than four (4) feet – the aggregate area of such signs shall be included as part of aggregate wall sign area, as limited above.

Ground/freestanding signs.

Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8, shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each one hundred (100) feet of street frontage. Permitted sign area may be cumulative, but no sign surface shall exceed one hundred (100) square

feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the planning and zoning director may, pursuant to a Class II Special Permit, increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

For Outdoor advertising business signs as accessory uses to principal commercial uses only, a Class II Special Permit shall be required, and such signs shall further be limited as follows:

- a) Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;
- b) Signs shall be limited to one sign per structure only;
- c) Sign area shall be limited to no greater than thirty two (32) square feet;
- d) Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused from the total permissible wall sign area for the structure in question. (not counting the 20 sq. ft. of wall signs allowable per establishment) and

e) Such signs may either be painted or mounted onto the subject wall.

3. Notwithstanding the provisions set forth herein, where there are commercial, service or retail uses in a structure which may not be seen directly from the public right-of-way, but have direct access from a courtyard or open space which abuts a primary pedestrian pathway, a free-standing directional sign containing the names of all the establishments concealed from direct view may be erected which may be combined with a location map of the complex. Not more than one (1) such sign, not exceeding twenty (20) square feet in area, shall be erected per entrance, exit, or parking area.

4. Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

In addition, freestanding outdoor advertising business signs shall be permissible subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8 of this zoning ordinance.

10.6.3.2. SD-2 Coconut Grove Central Commercial District

Within the commercial center of Coconut Grove, it is of special and substantial public interest to strengthen unique historic and cultural character by regulations encouraging retail and service development with strong pedestrian orientation. It is further intended to encourage

innovative site planning and architectural design, and to create opportunities for combining residential and non-residential uses in a pattern minimizing potential adverse effects of such combinations.

Sign regulations:

Temporary Signs:

1. Temporary signs, including political election signs and real estate signs, shall be allowed subject to the exceptions, limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per each street frontage.
2. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.
3. Construction or development signs, individually or in combination, shall be limited to one (1) per street frontage, not exceeding ten (10) square feet in area, and erected with the highest portion fifteen (15) feet or less above grade.

Permanent signs:

1. For a single establishment within a building:

Wall signs for a single establishment within a building: When a single establishment takes up an entire building, only one (1) wall sign, not exceeding fifty (50) square feet in area, for every one hundred fifty (150) feet of length of building wall shall be permitted for each face of the building oriented toward the street.

Window signs, painted or attached, shall not exceed ten (10) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Ground signs: Ground signs, where permissible, shall be limited to monument signs only; no pole signs shall be allowed. One (1) ground sign, limited to ten (10) square feet in area, may be erected for buildings on lots where the street yard exceeds twenty (20) feet in depth.

Not more than one (1) projecting sign, other than a hanging (under awning) sign, shall be erected, with no more than two (2) sign surfaces, neither of which shall exceed ten (10) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

2. For a single building with more than one establishment opening up to the outdoors:

The building in which the establishments are located shall be allowed one (1) wall sign, limited to a building identification sign, not exceeding fifty (50) square feet in area, for each face of the building oriented toward the street; and in addition, each individual establishment within a building, that has a separate entrance to the outdoors (available to the general public, whether on the ground floor or on an

upper level), and a minimum frontage of 20 linear feet to the outdoors, shall be allowed the following signs:

- a) A wall sign not to exceed 20 square feet in area;
- b) Window signs not to exceed 10 percent of the glass area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.
- c) An awning sign, limited to the skirt or bottom edge of the awning; letters, emblems, logos or symbols not to exceed 6 inches in height.
- d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

Ground signs: Ground signs, where permissible, shall be limited to monument signs only; no pole signs shall be allowed. One (1) ground sign, limited to ten (10) square feet in area, may be erected for buildings on lots where the street yard exceeds twenty (20) feet in depth.

Not more than one (1) projecting sign, other than a hanging (under awning) sign, shall be erected, with no more than two (2) sign surfaces, neither of which shall exceed ten (10) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more

than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

3. Notwithstanding the provisions set forth herein, where there are commercial, service or retail uses in a structure which may not be seen directly from the public right-of-way, but have direct access from a courtyard or open space which abuts a primary pedestrian pathway, a free-standing directional sign containing the names of all the establishments concealed from direct view may be erected which may be combined with a location map of the complex. Not more than one (1) such sign, not exceeding twenty (20) square feet in area, shall be erected per entrance, exit, or parking area.

4. Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

10.6.3.3. Reserved

10.6.3.4. SD-4 Waterfront Industrial District

This district designation is intended for application in areas appropriately located for marine activities, including industrial operations and major movements of passengers and commodities. In view of the importance of such activities to local economy and the limited area suitable and available for such activities, it is intended to limit principal and accessory uses to those reasonably requiring location within such districts, and not to permit residential, general commercial, service, office or manufacturing

uses not primarily related to waterfront activities except for office uses in existing office structures. For the purposes of section 3(mm) of the City of Miami Charter, this district shall be construed as an industrial district.

Sign Regulations:

Temporary Signs:

1. Temporary signs, including political election signs and real estate signs, shall be allowed subject to the exceptions, limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per each street frontage.
2. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.
3. Construction: Not to exceed one (1) construction sign, thirty (30) square feet in area for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit.

Permanent signs:

1. For a single establishment within a building:

Wall signs for a single establishment within a building: When a single establishment takes up an entire building, wall signs shall be limited to one and one half (1½) square feet of sign area for each lineal foot of wall fronting on a street; there shall be no more than one wall sign for each 150 linear feet along a street front, with no more than 3 total on any wall. Walls that do not have street frontage

may contain no more than one wall sign each, not to exceed 50 square feet in area, but aggregate area shall be included as part of aggregate wall sign area as limited herein.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Projecting signs (other than hanging signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area; however, that such permissible sign area may be increased to eighty (80) square feet where maximum projection from the face of the building is two (2) feet or less, sixty (60) square feet where projection is more than two (2) and less than three (3) feet, and forty (40) square feet where projection is at least three (3), but not more than four (4) feet – the aggregate area of such signs shall be included as part of aggregate wall sign area, as limited above.

Ground/freestanding signs.

Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in Section 10.4.5 and 10.8, shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each one hundred (100) feet of street frontage. Permitted sign area may be cumulative, but no sign surface shall exceed one hundred (100) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the

nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the planning and zoning director may, pursuant to a Class II Special Permit, increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

2. For a single building with more than one establishment opening up to the outdoors:

Wall signs: The building in which the establishments are located shall be allowed one (1) wall sign, limited to a building identification sign, not exceeding fifty (50) square feet in area, for each face of the building oriented toward the street; and in addition, each individual establishment within a building, that has a separate entrance to the outdoors (available to the general public, whether on the ground floor or on an upper level), and a minimum frontage of 20 linear feet to the outdoors, shall be allowed the following signs:

- a) A wall sign not to exceed 20 square feet in area;
- b) Window signs not to exceed twenty (20) percent of the glass area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

c) An awning sign, limited to the skirt or bottom edge of the awning; letters, emblems, logos or symbols not to exceed 6 inches in height.

d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Projecting signs (other than hanging signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area; however, that such permissible sign area may be increased to eighty (80) square feet where maximum projection from the face of the building is two (2) feet or less, sixty (60) square feet where projection is more than two (2) and less than three (3) feet, and forty (40) square feet where projection is at least three (3), but not more than four (4) feet – the aggregate area of such signs shall be included as part of aggregate wall sign area, as limited above.

Ground/freestanding signs.

Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8, shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each one hundred (100) feet of street frontage. Permitted sign area may be cumulative, but no sign surface shall exceed one hundred (100) square

feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the planning and zoning director may, pursuant to a Class II Special Permit, increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

3. Notwithstanding the provisions set forth herein, where there are commercial, service or retail uses in a structure which may not be seen directly from the public right-of-way, but have direct access from a courtyard or open space which abuts a primary pedestrian pathway, a free-standing directional sign containing the names of all the establishments concealed from direct view may be erected which may be combined with a location map of the complex. Not more than one (1) such sign, not exceeding twenty (20) square feet in area, shall be erected per entrance, exit, or parking area.

4. Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

10.6.3.5. SD-5 Brickell Avenue Area Residential-Office District

This district is of special and substantial public interest because of its prime location on Brickell Avenue along the Bayfront and the Miami River, close to and visible from the CBD and Biscayne Bay, and its importance to the economic well-being of the city as a prestigious high-rise office district housing banking, finance, international trade, and other professional office uses.

In the interest of maintenance of principal views from within the district and adjoining areas, and preservation and enhancement of existing desirable features of design, landscaping and appearance, it is intended that development, at appropriately high intensity, shall be so designed as to assure open character, attractive and secure open space available to the general public at ground level, and appropriately located recreation space serving residential uses.

Uses and design should recognize the proximity to the areas of great natural beauty which are historically significant to the City. High density, so long as it provides public and scenic access to these natural and historic areas, is permitted. Water views, easy access to contiguous waterwalks, and several key water vistas should be made available to the public.

The district, because of a high concentration of residences both within the district and in neighboring areas and because of a large daytime population of workers, should facilitate the urban walking experience.

The district, especially along Brickell Avenue, should maintain large urban pedestrian walkways which include

overhead shade, sitting areas and public art and fountains. Landscape and street frontage open space are consistent with the financial and service entities which operate in the district.

Consumer and service retail which are located at street level and which are visible to the pedestrian are permitted to enhance the pedestrian experience and to provide a twenty-four-hour district.

Sign Regulations:

Temporary Signs:

1. Temporary signs, including political election signs and real estate signs, shall be allowed subject to the exceptions, limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per each street frontage.

2. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.

3. Construction: Not to exceed one (1) construction sign, or thirty (30) square feet in area for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit.

Permanent signs:

1. For a single establishment within a building:

Wall signs for a single establishment within a building: When a single establishment takes up an entire building, only one (1) wall sign, not exceeding fifty (50) square feet

in area, for every one hundred fifty (150) feet of length of building wall shall be permitted for each face of the building oriented toward the street.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Ground signs: Ground signs, where permissible, shall be limited to monument signs only; no pole signs shall be allowed. One (1) ground sign, limited to ten (10) square feet in area, may be erected for buildings on lots where the street yard exceeds twenty (20) feet in depth.

Not more than one (1) projecting sign, other than a hanging sign, shall be erected, with no more than two (2) sign surfaces, neither of which shall exceed ten (10) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

2. For a single building with more than one establishment opening up to the outdoors:

The building in which the establishments are located shall be allowed one (1) wall sign, limited to a building identification sign, not exceeding fifty (50) square feet in area, for each face of the building oriented toward the street; and in

addition, each individual establishment within a building, that has a separate entrance to the outdoors (available to the general public, whether on the ground floor or on an upper level), and a minimum frontage of 20 linear feet to the outdoors, shall be allowed the following signs:

- a) A wall sign not to exceed 20 square feet in area;
- b) Window signs not to exceed twenty (20) percent of the glass area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.
- c) An awning sign, limited to the skirt or bottom edge of the awning; letters, emblems, logos or symbols not to exceed 6 inches in height.
- d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

Ground signs: Ground signs, where permissible, shall be limited to monument signs only; no pole signs shall be allowed. One (1) ground sign, limited to ten (10) square feet in area, may be erected for buildings on lots where the street yard exceeds twenty (20) feet in depth.

Not more than one (1) projecting sign, other than a hanging sign, shall be erected, with no more than two (2) sign surfaces, neither of which shall exceed ten (10) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

3. Notwithstanding the provisions set forth herein, where there are commercial, service or retail uses in a structure which may not be seen directly from the public right-of-way, but have direct access from a courtyard or open space which abuts a primary pedestrian pathway, a free-standing directional sign containing the names of all the establishments concealed from direct view may be erected which may be combined with a location map of the complex. Not more than one (1) such sign, not exceeding twenty (20) square feet in area, shall be erected per entrance, exit, or parking area.

4. Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

10.6.3.6. SD-6, 6.1 Central Commercial-Residential Districts

These districts are of special and substantial interest because of their proximity to the Central Business District and the need to provide supporting and complementary high-density residential and office development with major retail shopping and entertainment activities.

It is intended to increase desirable pedestrian activity by mandating ground level retail and service uses with strong pedestrian orientation on frontages along major public walkways. By encouraging uses, activities, arrangements, and amenities that generate pedestrian street life, the pedestrian walking experience will be diversified, stimulated, and enhanced.

Due to the increased traffic burden on public roads and sidewalks that will be caused by the substantial increase of permitted development intensity in these districts, it is intended that public walkway systems be increased commensurately by the creation of plazas and promenades within the districts' yard and setback requirements, and by through block connections. The scale and utility of these widened walkways will complement and interconnect the high-intensity development fostered by these districts. To promote pedestrian comfort and convenience, it is intended to locate vehicular entrances to properties in such a manner as not to disrupt pedestrian flow on major pedestrian walkways.

As a significant view corridor of special character and a major link to the Central Business District, it is intended to protect and enhance the unique aesthetic and functional qualities of Biscayne Boulevard by requiring additional open space, yard, and setbacks for building frontage on the boulevard.

To relieve the dense spatial quality of these districts, and to provide a transparent link between interior and exterior pedestrian environments, a percentage of lot area is mandated as a well landscaped plaza activity area that will border on the adjacent street. It is intended that these

plazas form strong active pedestrian areas linking adjacent streetscapes to building interiors.

It is intended that large scale, yet diverse architectural designs are to be encouraged as statements of regional significance and the inherent social and economic complexity of these districts. However, to ensure ground level compatibility of projects, it is intended that the landscaping, paving materials, and street furniture complement these districts as a whole, and provide a uniform, yet diverse environment for the users.

Consistent with the complex dense urban character of the center city, it is intended that emphasis be given to graphics, signs and lighting as a means of projecting color, vitality, excitement and blend of activity.

Special intent concerning SD-6.1.

In addition to the general intent in section 606.1., the special intent for SD-6.1 is to promote development of a mixed-use complex, including a public performing arts center. To this end, incentives are provided through increased floor area ratio for dedication of land and/or construction of performing arts theaters and an additional Metromover station to serve the theaters. Additionally, floor area ratio incentives are provided to encourage the private sector to provide onsite housing, to assist with the construction of affordable housing within the SD-6 and SD-6.1 districts, and to provide amenities and services such as child care centers and ground floor retail, restaurant, and service uses.

Sign Regulations:

Temporary Signs:

1. Temporary signs, including political election signs and real estate signs, shall be allowed subject to the exceptions, limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per each street frontage.
2. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.
3. Construction: Not to exceed one (1) construction sign, or thirty (30) square feet in area for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit.

Permanent signs:

1. For a single establishment within a building:

Wall signs for a single establishment within a building: When a single establishment takes up an entire building, wall signs shall be limited to one and one half (1½) square feet of sign area for each lineal foot of wall fronting on a street; there shall be no more than one wall sign for each 150 linear feet along a street front, with no more than 3 total on any wall. Walls that do not have street frontage may contain no more than one wall sign each, not to exceed 50 square feet in area, but aggregate area shall be included as part of aggregate wall sign area as limited herein.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Projecting signs (other than hanging, as in under awning or canopy, signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed twenty-five (25) square feet in sign area.

Ground/freestanding signs.

Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8, shall be limited to one (1) sign structure with no more than two (2) sign surfaces per parallel street frontage, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each fifty (50) feet of street frontage. Permitted sign area shall be cumulative, but no sign surface shall exceed eighty (80) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the planning and zoning director, through a Class II Special Permit, may increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more

than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

2. For a single building with more than one establishment opening up to the outdoors:

Wall signs: The building in which the establishments are located shall be allowed one (1) wall sign, limited to a building identification sign, not exceeding fifty (50) square feet in area, for each face of the building oriented toward the street; and in addition, each individual establishment within a building, that has a separate entrance to the outdoors (available to the general public, whether on the ground floor or on an upper level), and a minimum frontage of 20 linear feet to the outdoors, shall be allowed the following signs:

- a) A wall sign not to exceed 20 square feet in area;
- b) Window signs not to exceed twenty (20) percent of the glass area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.
- c) An awning sign, limited to the skirt or bottom edge of the awning; letters, emblems, logos or symbols not to exceed 6 inches in height.
- d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these

regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Projecting signs (other than hanging, as in under awning or canopy, signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed twenty-five (25) square feet in sign area.

Ground/freestanding signs.

Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8, shall be limited to one (1) sign structure with no more than two (2) sign surfaces per parallel street frontage, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each fifty (50) feet of street frontage. Permitted sign area shall be cumulative, but no sign surface shall exceed eighty (80) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the planning and zoning director, through a Class II Special Permit, may increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

3. Notwithstanding the provisions set forth herein, where there are commercial, service or retail uses in a

structure which may not be seen directly from the public right-of-way, but have direct access from a courtyard or open space which abuts a primary pedestrian pathway, a free-standing directional sign containing the names of all the establishments concealed from direct view may be erected which may be combined with a location map of the complex. Not more than one (1) such sign, not exceeding twenty (20) square feet in area, shall be erected per entrance, exit, or parking area.

4. Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

10.6.3.7. SD-7 Central Brickell Rapid Transit Commercial - Residential Districts

This district is of special and substantial public interest because of its close proximity to the central business district, the Miami River, and the Metrorail and Metro-mover transit stations serving the Brickell area and because of its history as a predominantly residential neighborhood.

In the interests of reduction of traffic within the city generally and in this district in particular, of conservation of energy, and of the creation of an intensive urban environment with a twenty-four-hour activity pattern, it is intended that high-intensity mixed-use development of residential, office, and retail and service uses be encouraged that will provide innovative design of residential spaces, including the concept of residential uses on upper

levels over ground floor retail and service uses; retail, service, cultural and entertainment uses at ground level oriented towards intensive pedestrian usage; a modified downtown environment with minimal yards, a high percentage of lot coverage, highly usable pedestrian open spaces at ground level, and maximum interrelationship of ground floor uses and exterior public open space.

Concerning uses, it is intended that multifamily residential occupancy and ground level retail, service, cultural and entertainment uses be encouraged individually or as a part of a mixed-use residential and office development through a floor area incentive system. It is further intended to create a central focus of neighborhood activity along Brickell Promenade and adjoining frontages along Miami Avenue by requiring retail, service, cultural and entertainment uses at ground level along street frontages within the district, especially along Miami Avenue and SE 10th Street (the Brickell Promenade).

Although it is intended that the character of development be intensive, it is also intended that buildings be designed to provide pedestrians with lively, interesting, well landscaped spaces at ground level. To this end, yard areas adjacent to all streets are required to be developed as an integral part of the neighborhood pedestrian walkway system; and maximum setbacks are established for the ground floor of buildings, in order to form a continuous, uniform edge of building facades along the sidewalk edge. Certain streets which form linkages to transit stations and other activity centers can be expected to carry major volumes of pedestrian traffic; thus it is intended that development adjacent to such primary pedestrian pathways should be designed to accommodate ground floor

retail shops and other uses that promote an active pedestrian sidewalk environment.

Sign regulations:

Temporary Signs:

1. Temporary signs, including political election signs and real estate signs, shall be allowed subject to the exceptions, limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per each street frontage.

2. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.

3. Construction: Not to exceed one (1) construction sign, or thirty (30) square feet in area for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit.

Permanent signs:

1. For a single establishment within a building:

Wall signs for a single establishment within a building: When a single establishment takes up an entire building, only one (1) wall sign, not exceeding fifty (50) square feet in area, for every one hundred fifty (150) feet of length of building wall shall be permitted for each face of the building oriented toward the street.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these

regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Ground signs: Ground signs, where permissible, shall be limited to monument signs only; no pole signs shall be allowed. One (1) ground sign, limited to ten (10) square feet in area, may be erected for buildings on lots where the street yard exceeds twenty (20) feet in depth.

Not more than one (1) projecting sign, other than a hanging sign, shall be erected, with no more than two (2) sign surfaces, neither of which shall exceed ten (10) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

2. For a single building with more than one establishment opening up to the outdoors:

The building in which the establishments are located shall be allowed one (1) wall sign, limited to a building identification sign, not exceeding fifty (50) square feet in area, for each face of the building oriented toward the street; and in addition, each individual establishment within a building, that has a separate entrance to the outdoors (available to the general public, whether on the ground floor or on an upper level), and a minimum frontage of 20 linear feet to the outdoors, shall be allowed the following signs:

- a) A wall sign not to exceed 20 square feet in area;
- b) Window signs not to exceed twenty (20) percent of the glass area of the window or glass door in which placed; such, window signs may be painted or attached, the number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.
- c) An awning sign, limited to the skirt or bottom edge of the awning; letters, emblems, logos or symbols not to exceed 6 inches in height.
- d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

Ground signs: Ground signs, where permissible, shall be limited to monument signs only; no pole signs shall be allowed. One (1) ground sign, limited to ten (10) square feet in area, may be erected for buildings on lots where the street yard exceeds twenty (20) feet in depth.

Not more than one (1) projecting sign, other than a hanging sign, shall be erected, with no more than two (2) sign surfaces, neither of which shall exceed ten (10) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

3. Notwithstanding the provisions set forth herein, where there are commercial, service or retail uses in a structure which may not be seen directly from the public right-of-way, but have direct access from a courtyard or open space which abuts a primary pedestrian pathway, a free-standing directional sign containing the names of all the establishments concealed from direct view may be erected which may be combined with a location map of the complex. Not more than one (1) such sign, not exceeding twenty (20) square feet in area, shall be erected per entrance, exit, or parking area.

4. Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

10.6.3.8. SD-8 Design Plaza Commercial-Residential District

This district is of special and substantial public interest because of its unique qualities as a resource and service area for the design industry. It is intended to strengthen and encourage the expansion of design service activities in this area by allowing greater intensities for appropriate design-oriented service uses coupled with meaningful ground level pedestrian open spaces. It is further intended to recognize the predominantly built-up character of this area and the need for customer and employee parking by allowing offsite parking.

Sign Regulations:

Temporary Signs:

1. Temporary signs, including political election signs and real estate signs, shall be allowed subject to the exceptions, limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per each street frontage.
2. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of, decorative flags, bunting, and other decorations related to holidays.
3. Construction: Not to exceed one (1) construction sign, or thirty (30) square feet in area for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit.

Permanent signs:

1. For a single establishment within a building:

Wall signs for a single establishment within a building: When a single establishment takes up an entire building, wall signs shall be limited to one and one half (1½) square feet of sign area for each lineal foot of wall fronting on a street; there shall be no more than one wall sign for each 150 linear feet along a street front, with no more than 3 total on any wall. Walls that do not have street frontage may contain no more than one wall sign each, not to exceed 50 square feet in area, but aggregate area shall be included as part of aggregate wall sign area as limited herein.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Projecting signs (other than hanging signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area; however, that such permissible sign area may be increased to eighty (80) square feet where maximum projection from the face of the building is two (2) feet or less, sixty (60) square feet where projection is more than two (2) and less than three (3) feet, and forty (40) square feet where projection is at least three (3), but not more than four (4) feet – the aggregate area of such signs shall be included as part of aggregate wall sign area, as limited above.

Ground/freestanding signs.

Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8, shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each one hundred (100) feet of street frontage. Permitted sign area may be cumulative, but no sign surface shall exceed one hundred (100) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the planning and zoning director may, pursuant to a Class II Special Permit, increase the measurement of

the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

2. For a single building with more than one establishment opening up to the outdoors:

Wall signs: The building in which the establishments are located shall be allowed one (1) wall sign, limited to a building identification sign, not exceeding fifty (50) square feet in area, for each face of the building oriented toward the street; and in addition, each individual establishment within a building, that has a separate entrance to the outdoors (available to the general public, whether on the ground floor or on an upper level), and a minimum frontage of 20 linear feet to the outdoors, shall be allowed the following signs:

- a) A wall sign ~~not~~ to exceed 20 square feet in area;
- b) Window signs not to exceed twenty (20) percent of the glass area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.
- c) An awning sign, limited to the skirt or bottom edge of the awning; letters, emblems, logos or symbols not to exceed 6 inches in height.

d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Projecting signs (other than hanging signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area; however, that such permissible sign area may be increased to eighty (80) square feet where maximum projection from the face of the building is two (2) feet or less, sixty (60) square feet where projection is more than two (2) and less than three (3) feet, and forty (40) square feet where projection is at least three (3), but not more than four (4) feet – the aggregate area of such signs shall be included as part of aggregate wall sign area, as limited above.

Ground/freestanding signs.

Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8, shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each one hundred (100) feet of street frontage. Permitted sign area may be cumulative, but no sign surface shall exceed one hundred (100) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however,

that the planning and zoning director may, pursuant to a Class II Special Permit, increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

3. Notwithstanding the provisions set forth herein, where there are commercial, service or retail uses in a structure which may not be seen directly from the public right-of-way, but have direct access from a courtyard or open space which abuts a primary pedestrian pathway, a free-standing directional sign containing the names of all the establishments concealed from direct view may be erected which may be combined with a location map of the complex. Not more than one (1) such sign, not exceeding twenty (20) square feet in area, shall be erected per entrance, exit, or parking area.

4. Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

10.6.3.9. SD-9 Biscayne Boulevard North Overlay District

Biscayne Boulevard North is one of the major gateways to the City of Miami. This overlay district is of special and substantial public interest because of the need to upgrade the amenities and visual qualities of the boulevard. It is intended that future public and private development shall respect and enhance this gateway role by providing well landscaped development along the boulevard; to encourage appropriate development and to assure appropriate uses along the boulevard by modifying the use regulations of underlying districts.

Sign Regulations: Sign limitations shall be as for the underlying district, except for properties which have direct frontage along Biscayne Boulevard or which have frontage within one hundred (100) feet of Biscayne Boulevard, in which case sign limitations shall be as provided below:

1. General limitations.

a) Signs more than fifteen (15) feet above grade, but less than fifty (50) feet above grade. Signs erected with their lowest portions more than fifteen (15) feet above grade shall be limited to those identifying the building and the nature of the establishments it contains. Except as provided below, only one (1) such sign, not exceeding fifty (50) square feet in area for every one hundred fifty (150) feet of length of building wall oriented toward the street, shall be permitted. In addition to the class II Special Permit required for such signs, referral to the urban development review board shall be mandatory for signs fifteen (15) feet above grade that exceed the allowable fifty (50) square feet of sign area. Area of such signs shall in no case exceed 1.5

square feet for each lineal foot of building wall frontage on a street.

b) Signs fifteen (15) feet or less above grade; limitations on number and area. Wall signs (not including signs in glassed areas of windows or doors) and projecting signs erected with their highest portion fifteen (15) feet or less above grade shall be limited in total area to twenty (20) square feet, except as otherwise specifically provided herein (see section 3 below). Signs in glassed areas of windows and doors shall not exceed ten (10) percent of the glassed area of the window or door involved.

2. Detailed limitations, wall signs, projecting signs, window signs.

a) Within twenty (20) square feet maximum allowable, at or below fifteen (15) feet above grade, the following limitations shall apply to number and area of signs. Not more than one (1) wall sign may be erected per establishment unless the establishment has frontage along two (2) streets, in which case two (2) wall signs shall be permitted, one (1) on each wall fronting a street, and the maximum area of any such sign shall be twenty (20) square feet. Not more than one (1) projecting sign other than a marquee sign, shall be erected, with no more than two (2) surfaces, neither of which shall exceed twenty-five (25) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building. Marquee signs shall be limited to one (1) per establishment and three (3) square feet in sign area.

3. Directional signs, number and area. Directional signs, which may be combined with address signs, but shall bear no advertising matter, may be erected to guide entrances, exits or parking areas. Not more than one (1) such sign,

not exceeding five (5) square feet in area, shall be erected per entrance, exit or parking area.

4. Community or neighborhood bulletin boards or kiosks. Community or neighborhood bulletin boards or kiosks shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

5. Prohibited signs. Balloon signs and ground or free-standing signs, except for temporary signs.

Notwithstanding the above, when a single building consists of multiple establishments opening up to the outdoors, the following shall apply:

Wall signs: The building in which the establishments are located shall be allowed one (1) wall sign, limited to a building identification sign, not exceeding fifty (50) square feet in area, for each face of the building oriented toward the street; and in addition, each individual establishment within a building, that has a separate entrance to the outdoors (available to the general public, whether on the ground floor or on an under level), and a minimum frontage of 20 linear feet to the outdoors, shall be allowed the following signs:

- a) A wall sign not to exceed 20 square feet in area;
- b) Window signs not to exceed twenty (20) percent of the glass area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but

aggregate area shall be included as part of aggregate wall sign area, as limited above.

c) An awning sign, limited to the skirt or bottom edge of the awning; letters, emblems, logos or symbols not to exceed 6 inches in height.

d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

10.6.3.10. Reserved

10.6.3.11. SD-11 Coconut Grove Rapid Transit District

This district is of special and substantial public interest because of its close proximity to the rapid transit station serving the Coconut Grove area. In the interest of reduction of travel and traffic within the city and conservation of energy, protection against automobile and pedestrian access conflicts, coordination of public and private traffic movement and facilities, encouragement of designs that will enhance the entrance to Coconut Grove and be compatible with the scale, landscape character, and diversity of Coconut Grove, it is intended that development, at appropriate intensity, shall be designed to assure attractive, secure pedestrian open space (including plazas) available to the general public, traffic patterns for pedestrians and automobiles that avoid conflicts and are properly linked to the transit station, and will be consistent with the character of Coconut Grove.

Sign Regulations:

Temporary Signs:

1. Temporary signs, including political election signs and real estate signs, shall be allowed subject to the exceptions,

limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per each street frontage.

2. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.

3. Construction: Not to exceed one (1) construction sign, or thirty (30) square feet in area for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit.

Permanent signs:

1. For a single establishment within a building:

Wall signs for a single establishment within a building: When a single establishment takes up an entire building, wall signs shall be limited to one and one half (1½) square feet of sign area for each lineal foot of wall fronting on a street; there shall be no more than one wall sign for each 150 linear feet along a street front, with no more than 3 total on any wall. Walls that do not have street frontage may contain no more than one wall sign each, not to exceed 50 square feet in area, but aggregate area shall be included as part of aggregate wall sign area as limited herein.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Projecting signs (other than hanging signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area; however, that such permissible sign area may be increased to eighty (80) square feet where maximum projection from the face of the building is two (2) feet or less, sixty (60) square feet where projection is more than two (2) and less than three (3) feet, and forty (40) square feet where projection is at least three (3), but not more than four (4) feet – the aggregate area of such signs shall be included as part of aggregate wall sign area, as limited above.

Ground/freestanding signs.

Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8, shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each one hundred (100) feet of street frontage. Permitted sign area may be cumulative, but no sign surface shall exceed one hundred (100) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the planning and zoning director may, pursuant to a Class II Special Permit, increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected

to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

2. For a single building with more than one establishment opening up to the outdoors:

Wall signs: The building in which the establishments are located shall be allowed one (1) wall sign, limited to a building identification sign, not exceeding fifty (50) square feet in area, for each face of the building oriented toward the street; and in addition, each individual establishment within a building, that has a separate entrance to the outdoors (available to the general public, whether on the ground floor or on an upper level), and a minimum frontage of 20 linear feet to the outdoors, shall be allowed the following signs:

- a) A wall sign not to exceed 20 square feet in area;
- b) Window signs not to exceed twenty (20) percent of the glass area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.
- c) An awning sign, limited to the skirt or bottom edge of the awning; letters, emblems, logos or symbols not to exceed 6 inches in height.
- d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these

regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Projecting signs (other than hanging signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area; however, that such permissible sign area may be increased to eighty (80) square feet where maximum projection from the face of the building is two (2) feet or less, sixty (60) square feet where projection is more than two (2) and less than three (3) feet, and forty (40) square feet where projection is at least three (3), but not more than four (4) feet – the aggregate area of such signs shall be included as part of aggregate wall sign area, as limited above.

Ground/freestanding signs.

Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8, shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each one hundred (100) feet of street frontage. Permitted sign area may be cumulative, but no sign surface shall exceed one hundred (100) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the planning and zoning director may, pursuant to a Class II Special Permit, increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

3. Notwithstanding the provisions set forth herein, where there are commercial, service or retail uses in a structure which may not be seen directly from the public right-of-way, but have direct access from a courtyard or open space which abuts a primary pedestrian pathway, a free-standing directional sign containing the names of all the establishments concealed from direct view may be erected which may be combined with a location map of the complex. Not more than one (1) such sign, not exceeding twenty (20) square feet in area, shall be erected per entrance, exit, or parking area.

4. Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

10.6.3.12. Reserved.

10.6.3.13. SD-13 S.W. 27th Avenue Gateway District

The major gateway to Coconut Grove is 27th Avenue. This area is of special and substantial public interest because of the need to upgrade its amenities and visual quality. It is intended to encourage activities along the street frontage which generate street life, consistent with the character of

Coconut Grove, which would strengthen the relation between the area and the transit station.

Sign regulations:

Temporary Signs:

1. Temporary signs, including political election signs and real estate signs, shall be allowed subject to the exceptions, limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per each street frontage.

2. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.

3. Construction or development signs, individually or in combination, shall be limited to one (1) per street frontage, not exceeding ten (10) square feet in area, and erected with the highest portion fifteen (15) feet or less above grade.

Permanent signs:

1. For a single establishment within a building:

Wall signs for a single establishment within a building: When a single establishment takes up an entire building, only one (1) wall sign, not exceeding fifty (50) square feet in area, for every one hundred fifty (150) feet of length of building wall shall be permitted for each face of the building oriented toward the street.

Window signs, painted or attached, shall not exceed ten (10) percent of the glassed area of the window in which placed. Number of such signs is not limited by these

regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Ground signs: Ground signs, where permissible, shall be limited to monument signs only; no pole signs shall be allowed. One (1) ground sign, limited to ten (10) square feet in area, may be erected for buildings on lots where the street yard exceeds twenty (20) feet in depth.

Not more than one (1) projecting sign, other than a hanging sign, shall be erected, with no more than two (2) sign surfaces, neither of which shall exceed ten (10) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

2. For a single building with more than one establishment opening up to the outdoors:

The building in which the establishments are located shall be allowed one (1) wall sign, limited to a building identification sign, not exceeding fifty (50) square feet in area, for each face of the building oriented toward the street; and in addition, each individual establishment within a building, that has a separate entrance to the outdoors (available to the general public, whether on the ground floor or on an upper level), and a minimum frontage of 20 linear feet to the outdoors, shall be allowed the following signs:

- a) A wall sign not to exceed 20 square feet in area;
- b) Window signs not to exceed twenty (20) percent of the glass area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.
- c) An awning sign, limited to the skirt or bottom edge of the awning; letters, emblems, logos or symbols not to exceed 6 inches in height.
- d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

Ground signs: Ground signs, where permissible, shall be limited to monument signs only; no pole signs shall be allowed. One (1) ground sign, limited to ten (10) square feet in area, may be erected for buildings on lots where the street yard exceeds twenty (20) feet in depth.

Not more than one (1) projecting sign, other than a hanging sign, shall be erected, with no more than two (2) sign surfaces, neither of which shall exceed ten (10) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

3. Notwithstanding the provisions set forth herein, where there are commercial, service or retail uses in a structure which may not be seen directly from the public right-of-way, but have direct access from a courtyard or open space which abuts a primary pedestrian pathway, a free-standing directional sign containing the names of all the establishments concealed from direct view may be erected which may be combined with a location map of the complex. Not more than one (1) such sign, not exceeding twenty (20) square feet in area, shall be erected per entrance, exit, or parking area.

4. Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

10.6.3.14. SD-14, 14.1, 14.2 Latin Quarter Commercial – Residential, and Residential Districts

The Latin Quarter is of special public interest because of its distinctive ethnic culture that includes the language, history and atmosphere. The intent of this district designation is to reinforce and expand the area's individuality as well as to develop an Hispanic architectural character to improve the quality of life and attract visitors and tourists.

Sign regulations:

Temporary Signs:

1. Temporary signs, including political election signs and real estate signs, shall be allowed subject to the exceptions,

limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per each street frontage.

2. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.

3. Construction or development signs, individually or in combination, shall be limited to one (1) per street frontage, not exceeding ten (10) square feet in area, and erected with the highest portion fifteen (15) feet or less above grade.

Permanent signs:

1. For a single establishment within a building:

Wall signs for a single establishment within a building: When a single establishment takes up an entire building, only one (1) wall sign, not exceeding fifty (50) square feet in area, for every one hundred fifty (150) feet of length of building wall shall be permitted for each face of the building oriented toward the street.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Ground signs. Ground signs, where permissible, shall be limited to monument signs only; no pole signs shall be allowed. One (1) ground sign, limited to ten (10) square feet in area, may be erected for buildings on lots where the street yard exceeds twenty (20) feet in depth.

Not more than one (1) projecting sign, other than a hanging sign, shall be erected, with no more than two (2) sign surfaces, neither of which shall exceed ten (10) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

For Outdoor advertising business signs as accessory uses to principal commercial uses only, a Class II Special Permit shall be required, and such signs shall further be limited as follows:

- a) Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;
- b) Signs shall be limited to one sign per structure only;
- c) Sign area shall be limited to no greater than thirty-two (32) square feet;
- d) Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused from the total permissible wall sign area for the structure in question. (not counting the 20 sq. ft. of wall signs allowable per establishment) and
- e) Such signs may either be painted or mounted onto the subject wall.

2. For a single building with more than one establishment opening up to the outdoors:

The building in which the establishments are located shall be allowed one (1) wall sign, limited to a building identification sign, not exceeding fifty (50) square feet in area, for each face of the building oriented toward the street; and in addition, each individual establishment within a building, that has a separate entrance to the outdoors (available to the general public, whether on the ground floor or on an upper level), and a minimum frontage of 20 linear feet to the outdoors, shall be allowed the following signs:

- a) A wall sign not to exceed 20 square feet in area;
- b) Window signs not to exceed twenty (20) percent of the glass area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.
- c) An awning sign, limited to the skirt or bottom edge of the awning; letters, emblems, logos or symbols not to exceed 6 inches in height.
- d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

Ground signs: Ground signs, where permissible, shall be limited to monument signs only; no pole signs shall be allowed. One (1) ground sign, limited to ten (10) square feet in area, may be erected for buildings on lots where the street yard exceeds twenty (20) feet in depth.

Not more than one (1) projecting sign, other than a hanging sign, shall be erected, with no more than two (2) sign

surfaces, neither of which shall exceed ten (10) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

For Outdoor advertising business signs as accessory uses to principal commercial uses only, a Class II Special Permit shall be required, and such signs shall further be limited as follows:

a) Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;

b) Signs shall be limited to one sign per structure only;

c) Sign area shall be limited to no greater than thirty-two (32) square feet;

d) Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused from the total permissible wall sign area for the structure in question. (not counting the 20 sq. ft. of wall signs allowable per establishment) and

e) Such signs may either be painted or mounted onto the subject wall.

3. Notwithstanding the provisions set forth herein, where there are commercial, service or retail uses in a structure which may not be seen directly from the public

right-of-ways but have direct access from a courtyard or open space which abuts a primary pedestrian pathway, a free-standing directional sign containing the names of all the establishments concealed from direct view may be erected which may be combined with a location map of the complex. Not more than one (1) such sign, not exceeding twenty (20) square feet in area, shall be erected per entrance, exit, or parking area.

4. Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

10.6.3.15. SD-15 River Quadrant Mixed-Use District

This district is of special and substantial public interest because of its unique location adjacent to the Central Business District, along the Miami River, surrounding the proposed River Quadrant Metrorail Station. In the interest of: reduction of traffic within the city generally and in this district in particular; support of the existing and proposed transit facilities; conservation of energy, and the creation of an intensive urban environment with a twenty-four-hour activity pattern, it is intended that high-intensity mixed-use development of office, hotel, residential, retail, service, cultural and entertainment uses be encouraged. Along the Miami River, it is intended to encourage water-dependent and water-related uses that are compatible with the adjacent development.

It is intended that the character of development shall be such as to enhance the amenity of the location along the

Miami River and to provide for pleasant and attractive surroundings throughout the district. Orientation and design of principal buildings and related site design and improvements shall be such as to: provide direct convenient pedestrian access to Metrorail and Metromover stations, protect views of the water from principal public view points; provide public pedestrian access to and along the riverfront; and provide pedestrians with active, interesting, well landscaped and convenient spaces at ground level with outdoor passive or active recreation areas for employees, visitors and residents. It is further intended that rooftops as seen from upper level areas shall present an attractive appearance.

Sign Regulations:

Temporary Signs:

1. Temporary signs, including political election signs and real estate signs, shall be allowed subject to the exceptions, limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per each street frontage.
2. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.
3. Construction: Not to exceed one (1) construction sign, or thirty (30) square feet in area for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit.

Permanent signs:

1. For a single establishment within a building:

Wall signs for a single establishment within a building: When a single establishment takes up an entire building, wall signs shall be limited to one and one half (1½) square feet of sign area for each lineal foot of wall fronting on a street; there shall be no more than one wall sign for each 150 linear feet along a street front, with no more than 3 total on any wall. Walls that do not have street frontage may contain no more than one wall sign each, not to exceed 50 square feet in area, but aggregate area shall be included as part of aggregate wall sign area as limited herein.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Projecting signs (other than hanging, as in under awning or canopy, signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed twenty-five (25) square feet in sign area.

Ground/freestanding signs.

Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8, shall be limited to one (1) sign structure with no more than two (2) sign surfaces per parallel street frontage, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each fifty (50) feet of street frontage. Permitted sign area shall be cumulative, but no sign surface shall exceed

eighty (80) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the planning and zoning director, through a Class II Special Permit, may increase the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

2. For a single building with more than one establishment opening up to the outdoors:

Wall signs: The building in which the establishments are located shall be allowed one (1) wall sign, limited to a building identification sign, not exceeding fifty (50) square feet in area, for each face of the building oriented toward the street; and in addition, each individual establishment within a building, that has a separate entrance to the outdoors (available to the general public, whether on the ground floor or on an upper level), and a minimum frontage of 20 linear feet to the outdoors, shall be allowed the following sign:

- a) A wall sign not to exceed 20 square feet in area;
- b) Window signs not to exceed twenty (20) percent of the glass area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but

aggregate area shall be included as part of aggregate wall sign area, as limited above.

c) An awning sign, limited to the skirt or bottom edge of the awning; letters, emblems, logos or symbols not to exceed 6 inches in height.

d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Projecting signs (other than hanging, as in under awning or canopy, signs) shall be limited to one (1) sign structure with no more than two (2) sign surfaces, neither of which shall exceed twenty-five (25) square feet in sign area.

Ground/freestanding signs.

Ground or freestanding signs, to the extent allowed subject to the limitations and restrictions set forth in Sections 10.4.5 and 10.8, shall be limited to one (1) sign structure with no more than two (2) sign surfaces per parallel street frontage, neither of which shall exceed forty (40) square feet in sign area, for each establishment or for each fifty (50) feet of street frontage. Permitted sign area shall be cumulative, but no sign surface shall exceed eighty (80) square feet. Maximum height limitation shall be twenty (20) feet including embellishments, measured from the crown of the nearest adjacent local or arterial street, not including limited access highways or expressways, provided, however, that the planning and zoning director, through a Class II Special Permit, may increase

the measurement of the crown by up to five (5) feet to accommodate unusual or undulating site conditions.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

3. Notwithstanding the provisions set forth herein, where there are commercial, service or retail uses in a structure which may not be seen directly from the public right-of-way, but have direct access from a courtyard or open space which abuts a primary pedestrian pathway, a free-standing directional sign containing the names of all the establishments concealed from direct view may be erected which may be combined with a location map of the complex. Not more than one (1) such sign, not exceeding twenty (20) square feet in area, shall be erected per entrance, exit, or parking area.

4. Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

10.6.3.16. SD-16, 16.1, 16.2 Southeast Overtown-Park West Commercial-Residential Districts

It is of special and substantial public interest to guide redevelopment in accord with the Southeast Overtown-Park West redevelopment plan in the area north of the

Central Business District, west of Bicentennial Park, south of I-395, and east of I-95 by regulations encouraging a quality residential living environment with direct access to shopping, recreation, transportation and employment. It is intended that development at appropriate high intensity will provide a variety of housing opportunities, open character, attractive and secure open space, appropriately located residential recreation space serving residential uses, adequate retail and service support facilities, and a safe pedestrian movement system.

It is intended that multifamily residential occupancy in this area is to be promoted and encouraged, either in separate buildings or in combination with office and supporting retail and service uses, and that such supporting uses shall be scaled and designed to serve the needs of the districts.

It is intended that the character of the development shall be moderate to high intensity that provides an attractive, secure environment for residents and workers with a variety of forms for spatial interest. Site planning and orientation shall protect and enhance view corridors, and shall take maximum advantage of potential views and prevailing air currents. In general, to maintain continuity between buildings and adjacent blocks, developments shall adhere to applicable yard, setback and landscaping standards.

In consideration of the proposed concentration of residential occupancy and supporting commercial uses and the availability of mass transit, these regulations are intended to promote pedestrian comfort and convenience. Developments shall provide barrier free movement on pedestrian ways, desirable shade and shelter in pedestrian areas, and

solar access where necessary for the provision of recreation, energy or other purposes. Consideration shall be given to ground and upper level pedestrian connections to adjacent or nearby developments.

Sign regulations:

Temporary Signs:

1. Temporary signs, including political election signs and real estate signs, shall be allowed subject to the exceptions, limitations and responsibilities of subsection 10.3.2. Real Estate signs shall be limited to one sign per each street frontage.

2. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.

3. Construction: Not to exceed one (1) construction sign, or thirty (30) square feet in area for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit.

Permanent signs:

1. For a single establishment within a building:

Wall signs for a single establishment within a building: When a single establishment takes up an entire building, only one (1) wall sign, not exceeding fifty (50) square feet in area, for every one hundred fifty (150) feet of length of building wall shall be permitted for each face of the building oriented toward the street.

Window signs, painted or attached, shall not exceed twenty (20) percent of the glassed area of the window in which placed. Number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

Ground signs: Ground signs, where permissible, shall be limited to monument signs only; no pole signs shall be allowed. One (1) ground sign, limited to ten (10) square feet in area, may be erected for buildings on lots where the street yard exceeds twenty (20) feet in depth.

Not more than one (1) projecting sign, other than a hanging sign, shall be erected, with no more than two (2) sign surfaces, neither of which shall exceed ten (10) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

For Outdoor advertising business signs as accessory uses to principal commercial uses only, a Class II Special Permit shall be required, and such signs shall further be limited as follows:

a) Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;

- b) Signs shall be limited to one sign per structure only;
- c) Sign area shall be limited to no greater than thirty-two (32) square feet
- d) Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused from the total permissible wall sign area for the structure in question. (not counting the 20 sq. ft. of wall signs allowable per establishment) and
- e) Such signs may either be painted or mounted onto the subject wall.

2. For a single building with more than one establishment opening up to the outdoors:

The building in which the establishments are located shall be allowed one (1) wall sign, limited to a building identification sign, not exceeding fifty (50) square feet in area, for each face of the building oriented toward the street; and in addition, each individual establishment within a building, that has a separate entrance to the outdoors (available to the general public, whether on the ground floor or on an upper level), and a minimum frontage of 20 linear feet to the outdoors, shall be allowed the following signs:

- a) A wall sign not to exceed 20 square feet in area;
- b) Window signs not to exceed twenty (20) percent of the glass area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.

c) An awning sign, limited to the skirt or bottom edge of the awning; letters, emblems, logos or symbols not to exceed 6 inches in height.

d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

Ground signs: Ground signs, where permissible, shall be limited to monument signs only; no pole signs shall be allowed. One (1) ground sign, limited to ten (10) square feet in area, may be erected for buildings on lots where the street yard exceeds twenty (20) feet in depth.

Not more than one (1) projecting sign, other than a hanging sign, shall be erected, with no more than two (2) sign surfaces, neither of which shall exceed ten (10) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building.

Directional signs, number and area.

Directional signs, which may be combined with address signs but shall bear no advertising matter, may be erected to guide to entrances, exits, or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit, or parking area.

For Outdoor advertising business signs as accessory uses to principal commercial uses only, a Class II Special Permit shall be required, and such signs shall further be limited as follows:

a) Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;

- b) Signs shall be limited to one sign per structure only;
 - c) Sign area shall be limited to no greater than thirty-two (32) square feet;
 - d) Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused from the total permissible wall sign area for the structure in question. (not counting the 20 sq. ft. of wall signs allowable per establishment) and
 - e) Such signs may either be painted or mounted onto the subject wall.
3. Notwithstanding the provisions set forth herein, animated and flashing signs and banners shall be permitted for ground level nonresidential uses fronting on N.E. and N.W. 9 Street.
4. Notwithstanding the provisions set forth herein, where there are commercial, service or retail uses in a structure which may not be seen directly from the public right-of-way, but have direct access from a courtyard or open space which abuts a primary pedestrian pathway, a free-standing directional sign containing the names of all the establishments concealed from direct view may be erected which may be combined with a location map of the complex. Not more than one (1) such sign, not exceeding twenty (20) square feet in area, shall be erected per entrance, exit, or parking area.
5. Community or neighborhood bulletin boards or kiosks: Shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not

exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

6. Outdoor advertising business signs shall be permitted only in conjunction with a "Media Tower" as defined herein in Section 10.2 and Article 25.

For Media Tower

Media Tower. A structure that may serve as a viewing tower and a kinetic illuminated media display system, utilizing signage, video and all other forms of animated illuminated visual message media within the South-east/Overtown Park West Redevelopment Area.

It is intended that such a structure shall be used to achieve an overall effect and aesthetic consistency within the private-owned properties within the District based upon criteria provided for and set forth in the implementing zoning ordinance provisions and applicable provisions of Chapter 163, Part III, Florida Statutes referred to herein as the Community Redevelopment Act of 1969, and in the implementing provisions of this ordinance.

Implementation:

The Miami Media Tower shall exist solely in the Southeast Overtown/Park West Redevelopment Area.

Such a "Media Tower", inclusive of animated signage, shall not be implemented until such time that a Masterplan for the Community Redevelopment Area is completed, and an appropriate location for such a project is identified.

Criteria

It is the purpose of the Miami Media Tower to (a) define an area in the City where signage of this type can be placed

on a tower; that together with architectural design standards for buildings within the area as well as urban design standards based on new urbanist principles in the area of the City will establish a unique local, regional and national identity within the District; (b) strengthen the economy of the City by encouraging the development and redevelopment of a depressed, blighted and slum area within a major redevelopment area within the downtown core of the City; and (c) provide a source of funds to be used exclusively within said redevelopment area for redevelopment related activities, and nothing else.

Permitting:

A Class II Special Permit shall be required for all such signs specified herein. All applications shall require a mandatory review by the Urban Development Review Board and approval by the Executive Director of the CRA.

10.6.3.17. Reserved.

10.6.3.18. Reserved.

10.6.3.19. Reserved.

10.6.3.20. SD-20 Edgewater Overlay District

The intent of this overlay district is to provide a development incentive for the general Edgewater/Omni area between Northeast 2nd Avenue to Biscayne Bay. It is also the intent to preserve the urban character of the area, to preserve and enhance property values through setbacks and lot coverage restructure so as to enhance the area as a place to live and work.

Sign Regulations: Except as otherwise provided, signs may be illuminated but shall not be animated or flashing.

Sign limitations shall be as for the underlying district, except for properties which have direct frontage along Biscayne Boulevard or which have frontage within one hundred (100) feet of Biscayne Boulevard, in which case sign limitations shall be as provided below:

1. General limitations.

a) Signs more than fifteen (15) feet above grade, but less than fifty (50) feet above grade. Signs erected with their lowest portions more than fifteen (15) feet above grade shall be limited to those identifying the building and the nature of the establishments it contains. Except as provided below, only one (1) such sign, not exceeding fifty (50) square feet in area for every one hundred fifty (150) feet of length of building wall oriented toward the street, shall be permitted. In addition to the Class II Special Permit required for such signs, referral to the urban development review board shall be mandatory for signs fifteen (15) feet above grade that exceed the allowable fifty (50) square feet of sign area. Area of such signs shall in no case exceed 1.5 square feet for each lineal foot of building wall frontage on a street.

b) Signs fifteen (15) feet or less above grade; limitations on number and area. Wall signs (not including signs in glassed areas of windows or doors) and projecting signs erected with their highest portion fifteen (15) feet or less above grade shall be limited in total area to twenty (20) square feet, except as otherwise specifically provided herein (see section 3 below). Signs in glassed areas of windows and doors shall not exceed ten (10) percent of the glassed area of the window or door involved.

2. Detailed limitations, wall signs, projecting signs, window signs.

a) Within twenty (20) square feet maximum allowable, at or below fifteen (15) feet above grade, the following limitations shall apply to number and area of signs. Not more than one (1) wall sign may be erected per establishment unless the establishment has frontage along two (2) streets, in which case two (2) wall signs shall be permitted, one (1) on each wall fronting a street, and the maximum area of any such sign shall be twenty (20) square feet. Not more than one (1) projecting sign, other than a marquee sign, shall be erected, with no more than two (2) surfaces, neither of which shall exceed twenty-five (25) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building. Marquee signs shall be limited to one (1) per establishment and three (3) square feet in sign area.

3. Directional signs, number and area. Directional signs, which may be combined with address signs, but shall bear no advertising matter, may be erected to guide entrances, exits or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit or parking area.

4. Community or neighborhood bulletin boards or kiosks. Community or neighborhood bulletin boards or kiosks shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

5. Prohibited signs. Balloon signs and ground or free-standing signs, except for temporary signs.

Notwithstanding the above, when a single building consists of multiple establishments opening up to the outdoors, the following shall apply:

Wall signs: The building in which the establishments are located shall be allowed one (1) wall sign, limited to a building identification sign, not exceeding fifty (50) square feet in area, for each face of the building oriented toward the street; and in addition, each individual establishment within a building, that has a separate entrance to the outdoors (available to the general public, whether on the ground floor or on an upper level), and a minimum frontage of 20 linear feet to the outdoors, shall be allowed the following signs:

- a) A wall sign not to exceed 20 square feet in area;
- b) Window signs not to exceed twenty (20) percent of the glass area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.
- c) An awning sign, limited to the skirt or bottom edge of the awning; letters, emblems, logos or symbols not to exceed 6 inches in height.
- d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

10.6.3.21. Reserved.

10.6.3.22. SD-22 Florida Avenue Special District

The intent of this special district is of substantial public interest because of the pressing need to redevelop this area of Coconut Grove, so that it may properly fulfill its

role as a transitional zone between the existing SD-2 Coconut Grove Central Commercial District to the south and east, the R-2 Two-Family Residential District to the south and east, the R- 2 Two-Family Residential District to the north, and the R-1 Single Family Residential District to the west.

In order to accomplish this goal a slight increase in density, along with the opportunity to integrate limited commercial uses as a component, is implemented so as to establish a mixed use district. Such development is intended to bring pedestrians from the Coconut Grove commercial area into Florida Avenue. The increased activity generated by the implementation of limited commercial uses on the street will provide this district with the additional presence needed to enhance safety for residents and visitors alike.

The creation of this district will also enact a set of design standards and guidelines with the intended effect of providing this neighborhood with a unique yet appropriate character. The desired result is to transform this transitional area into an asset to the community by making it a safe, pedestrian-friendly and well-planned neighborhood with a slightly densified, yet still predominantly vernacular architectural environment.

Limitations on signs.

Temporary signs:

1. Temporary signs, which include political election signs and real estate signs, shall be allowed subject to the exceptions, limitations and responsibilities of subsections 10.3.2. Real Estate signs shall be limited in area to no more than one per street frontage.

2. In connection with active and continuing new construction work in progress: Except for Planned Unit Developments (PUD), construction signs shall not exceed one (1) construction sign, or six (6) square feet in area, for each lot line adjacent to a street. Such signs shall not be illuminated. PUD construction signs shall not exceed twenty (20) square feet in area, one (1) for each lot line adjacent to a street. Development signs shall not be permitted except in conjunction with such construction signs or by Class I Special Permit as provided in section 10.4.

3. In connection with holidays: Decorative flags, bunting, and other decorations on special occasions. No sign permit shall be required for display of decorative flags, bunting, and other decorations related to holidays.

Permanent signs:

Except as otherwise provided, such signs may be illuminated but shall not be animated or flashing.

In connection with each dwelling unit and all other uses:

1. Address signs, not to exceed one (1) for each dwelling unit or other use for each lot line adjacent to a street, or two (2) square feet in area, except as provided below.

2. Window signs which do not exceed one (1) square foot, in area limited to one such sign per residential unit.

3. Notice, directional and warning signs, not to exceed one (1) for each dwelling unit or other use for each lot line adjacent to a street, or two (2) square feet in area, provided that, where such signs are combined with address signs, maximum total area shall not exceed three (3) square feet. Such signs, if freestanding, shall not exceed

three (3) feet in height, be closer than ten (10) feet to any adjacent lot, or be closer than two (2) feet to any street line. Such signs shall not be illuminated.

4. For signs related to home occupations, total signage is limited to ten (10) square feet per building. Signs must be front lit only and no illumination of signs shall cause spill-over onto adjacent properties.

5. No signage shall be placed above the first floor level.

10.6.3.23. SD-23 Coral Way Special Overlay District.

Mature banyan trees growing in the median and arching over the roadways on either side characterize the Coral Way corridor. This creates a "green tunnel" effect that is widely admired for it's [sic] softening of this four-lane divided roadway.

Coral Way is designated as a historic roadway by the State of Florida, and cannot be significantly modified or widened without findings of special exception and concurrence by the City of Miami. This designation is largely responsible for the continuing existence of the banyan trees, and can provide a basis for further enhancement and beautification of the roadway.

Coral Way is a very diverse urban corridor containing a combination of one and two story residential developments, office developments of one and two stories and up to ten stories, and predominantly one story retail and service establishments. There are numerous instances of different land uses occurring on opposite sides of the corridor. This unique blend of retail, office and residential uses marks Coral Way as special urban neighborhood with a great deal of pedestrian activity.

It is the intent of this special district to preserve the character of certain sections of Coral way within the city from downtown to the city limits at SW 37 Avenue. Coral Way is a gateway into the city and should be preserved and enhanced in a manner befitting this designation. To this end, the purpose of this special district overlay is to ensure that future development and redevelopment activity respects this character and compliments the scale and variety of uses along the Coral Way corridor.

Sign Regulations:

Sign limitations shall be as for the underlying districts, except as provided below:

1. General limitations.

a) Signs more than fifteen (15) feet above grade, but less than fifty (50) feet above grade. Signs erected with their lowest portions more than fifteen (15) feet above grade shall be limited to those identifying the building and the nature of the establishments it contains. Except as provided below, only one (1) such sign, not exceeding fifty (50) square feet in area for every one hundred (100) feet of length of building wall oriented toward the street, shall be permitted. In addition to the Class II Special Permit required for such signs, referral to the urban development review board shall be mandatory for signs fifteen (15) feet above grade that exceed the allowable fifty (50) square feet of sign area. Area of such signs shall in no case exceed 1.5 square feet for each lineal foot of building wall frontage on a street.

b) Signs fifteen (15) feet or less above grade; limitations on number and area. Wall signs (not including signs in glassed areas of windows or doors) and projecting signs

erected with their highest portion fifteen (15) feet or less above grade shall be limited to one (1) square foot of sign area for each lineal foot of wall frontage on a street, except as otherwise specifically provided herein. Signs in glassed areas of windows and doors shall not exceed ten (10) percent of the glassed area of the window or door involved.

2. Detailed limitations, wall signs, projecting signs, window signs.

a) Within the maximum allowable sign area, at or below fifteen (15) feet above grade (as calculated above), the following limitations shall apply to number and area of signs. Not more than one (1) wall sign may be erected per establishment unless the establishment has frontage along two (2) streets, in which case two (2) wall signs shall be permitted, one (1) on each wall fronting a street, and the maximum area of any such sign shall be limited to one (1) square foot of sign area for each lineal foot of wall fronting on the street upon which that wall faces. Not more than one (1) projecting sign, other than a marquee sign, shall be erected, with not more than two (2) surfaces, neither of which shall exceed twenty-five (25) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building. Marquee signs shall be limited to one (1) per establishment and three (3) square feet in sign area.

3. Directional signs, number and area. Directional signs, which may be combined with address signs, but shall bear no advertising manner [matter], may be erected to guide entrances, exits or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit or parking area.

4. Community neighborhood bulletin boards or kiosks. Community or neighborhood bulletin boards or kiosks shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

5. Prohibited signs. Balloon signs and ground or free-standing signs, except for temporary signs.

6. Compliance; time limitations for existing nonconforming signage. All nonresidential establishments located within the SD-23 District must come into compliance with the signage requirements herein, as they relate to the permitted number of signs, no later than December 31, 2002.

Notwithstanding the above, when a single building consists of multiple establishments opening up to the outdoors, the following shall apply:

Wall signs: The building in which the establishments are located shall be allowed one (1) wall sign, limited to a building identification sign, not exceeding fifty (50) square feet in area, for each face of the building oriented toward the street; and in addition, each individual establishment within a building, that has a separate entrance to the outdoors (available to the general public, whether on the around floor or on an upper level), and a minimum frontage of 20 linear feet to the outdoors, shall be allowed the following signs:

- a) A wall sign not to exceed 20 square feet in area;
- b) Window signs not to exceed twenty (20) percent of the glass area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.
- c) An awning sign, limited to the skirt or bottom edge of the awning; letters, emblems, logos or symbols not to exceed 6 inches in height.
- d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

10.6.3.24. Reserved.

10.6.3.25. SD-25 SW 8th Street Special Overlay District

It is the intent of this special district to preserve the character of certain sections of SW 8th Street within the city, from downtown to SW 27th Avenue. SW 8th Street is a gateway into the city with a distinctive urban character and should be preserved and enhanced in a manner befitting this role. To this end, the purpose of this special district overlay is to ensure that future development and redevelopment activity respects this character and compliments the scale and variety of uses along the SW 8th street corridor.

Sign Regulations:

Sign limitations shall be as for the underlying districts, except as provided below:

1. General limitations.

a) Signs more than fifteen (15) feet above grade, but less than fifty (50) feet above grade. Signs erected with their lowest portions more than fifteen (15) feet above grade shall be limited to those identifying the building and the nature of the establishments it contains. Except as provided below, only one (1) such sign, not exceeding fifty (50) square feet in area for every one hundred (100) feet of length of building wall oriented toward the street, shall be permitted. In addition to the Class II Special Permit required for such signs, referral to the urban development review board shall be mandatory for signs fifteen (15) feet above grade that exceed the allowable fifty (50) square feet of sign area. Area of such signs shall in no case exceed 1.5 square feet for each lineal foot of building wall frontage on a street.

b) Signs fifteen (15) feet or less above grade; limitations on number and area. Wall signs (not including signs in glassed areas of windows or doors) and projecting signs erected with their highest portion fifteen (15) feet or less above grade shall be limited to one (1) square foot of sign area for each lineal foot of wall frontage on a street, except as otherwise specifically provided herein. Signs in glassed areas of windows and doors shall not exceed ten (10) percent of the glassed area of the window or door involved.

2. Detailed limitations, wall signs, projecting signs, window signs.

a) Within the maximum allowable sign area, at or below fifteen (15) feet above grade (as calculated above), the following limitations shall apply to number and area of signs. Not more than one (1) wall sign may be erected per establishment unless the establishment has frontage along

two (2) streets, in which case two (2) wall signs shall be permitted, one (1) on each wall fronting a street, and the maximum area of any such sign shall be limited to one (1) square foot of sign area for each lineal foot of wall fronting on the street upon which that wall faces. Not more than one (1) projecting sign, other than a marquee sign, shall be erected, with no more than two (2) surfaces, neither of which shall exceed twenty-five (25) square feet in area. No such sign structure shall extend more than three (3) feet from the wall of the building. Marquee signs shall be limited to one (1) per establishment and three (3) square feet in sign area.

3. Directional signs, number and area. Directional signs, which may be combined with address signs, but shall bear no advertising manner [matter], may be erected to guide entrances, exits or parking areas. Not more than one (1) such sign, not exceeding five (5) square feet in area, shall be erected per entrance, exit or parking area.

4. Community neighborhood bulletin boards or kiosks. Community or neighborhood bulletin boards or kiosks shall be permissible only by Class I Special Permit, as provided at section 10.3.1.6. In the case of flat bulletin boards, the area of such boards shall not exceed 25 square feet; and, in the case of kiosks, such structures shall not exceed a plan section area of 10 square feet and an overall height (including architectural embellishments) of 10 feet.

5. Prohibited signs. Balloon signs and ground or free-standing signs, except for temporary signs.

6. Compliance; time limitations for existing nonconforming signage. All nonresidential establishments located within the SD-25 District must come into compliance with the signage requirements herein, as they relate to the

permitted number of signs, no later than December 31, 2002.

Notwithstanding the above, when a single building consists of multiple establishments opening up to the outdoors, the following shall apply:

Wall signs: The building in which the establishments are located shall be allowed one (1) wall sign, limited to a building identification sign, not exceeding fifty (50) square feet in area, for each face of the building oriented toward the street; and in addition, each individual establishment within a building, that has a separate entrance to the outdoors (available to the general public, whether on the ground floor or on an upper level), and a minimum frontage of 20 linear feet to the outdoors, shall be allowed the following signs:

- a) A wall sign not to exceed 20 square feet in area;
- b) Window signs not to exceed twenty (20) percent of the glass area of the window or glass door in which placed; such window signs may be painted or attached, the number of such signs is not limited by these regulations, but aggregate area shall be included as part of aggregate wall sign area, as limited above.
- c) An awning sign, limited to the skirt or bottom edge of the awning; letters, emblems, logos or symbols not to exceed 6 inches in height.
- d) A hanging (as in under an awning or similar) sign not to exceed 3 square feet in area.

In addition, where the underlying zoning classification is C-1, Restricted Commercial, Outdoor advertising business signs shall be allowed as accessory uses to principal

commercial uses only, and a Class II Special Permit shall be required; such signs shall further be limited as follows:

a) Signs shall be wall mounted only on side walls of the existing principal commercial structure and shall not be freestanding;

b) Signs shall be limited to one sign per structure only;

c) Sign area shall be limited to no greater than thirty-two (32) square feet;

d) Permissible sign area may only be utilized on a commercial structure which has the allowable 32 square feet of sign area unused from the total permissible wall sign area for the structure in question. (not counting the 20 sq. ft. of wall signs allowable per establishment) and

e) Such signs may either be painted or mounted onto the subject wall.

Section 10.7. Limitations on signs above a height of fifty (50) feet above grade.

Except as otherwise provided in a specific zoning district, the following regulations shall apply to all signs above a height of fifty (50) feet above grade:

1. Signs shall be limited to the identification of the building or the name of one (1) major tenant of the building occupying more than five (5) percent of the gross leasable building floor area. Not more than two (2) signs per building on two (2) separate building facades shall be permitted.

2. Signs shall consist only of individual letters and/or a graphic logotype. No graphic embellishments such as borders, or backgrounds shall be permitted.

3. The maximum height of a letter shall be as follows:

TABLE INSET:

<u>If Any Portion of a Sign Is</u>	<u>Maximum Letter Height (feet)</u>
<u>Over fifty (50) feet but less than two hundred (200) feet above grade.....</u>	<u>4</u>
<u>Over two hundred (200) feet but less than three hundred (300) feet above grade</u>	<u>6</u>
<u>Over three hundred (300) feet but less than four hundred (400) feet above grade</u>	<u>8</u>
<u>Over four hundred (400) feet above grade.....</u>	<u>9</u>

The maximum height of a logo may exceed the maximum letter height by up to fifty (50) percent if its width does not exceed its height. When text and a graphic logotype are combined in an integrated fashion to form a seal or emblem representative of an institution or corporation, and when this emblem is to serve as the principal means of building identification, the following regulations shall apply.

TABLE INSET:

<u>If Any Portion of a Sign Is</u>	<u>Maximum Sign Surface (sq. ft.)</u>
<u>Over fifty (50) feet but less than two hundred (200) feet above grade.....</u>	<u>200</u>
<u>Over two hundred (200) feet but less than three hundred (300) feet above grade</u>	<u>300</u>
<u>Over three hundred (300) feet but less than four hundred (400) feet above grade</u>	<u>400</u>
<u>Over four hundred (400) feet above grade.....</u>	<u>500</u>

4. The maximum length of the sign shall not exceed eighty (80) percent of the width of the building wall upon which it is placed, as measured at the height of the sign. The sign shall consist of not more than one (1) horizontal line of letters and/or symbols, unless it is determined through Class II review that two (2) lines of lettering would be more compatible with the building design. The total length of the two (2) lines of lettering, end-to-end, if permitted, shall not exceed eighty (80) percent of the width of the building wall.

5. No variance from maximum size of letter, logotype, length of sign or number of signs shall be granted.

6. All sign permits shall be subject to Class II Special Permit. In considering the Class II Special Permit, the planning and zoning director shall obtain the recommendation of the Urban Development Review Board (UDRB). The UDRB shall recommend its findings to the planning and zoning director. The planning and zoning director may waive review by the UDRB if such review procedures would delay issuance of a Class II Special Permit by more than thirty (30) days from the date of permit application.

7. The UDRB and Class II Special Permit review shall be based on the following guidelines:

(a) Signs should respect the architectural features of the facade and be sized and placed subordinate to those features. Overlapping of functional windows, extensions beyond parapet edges obscuring architectural ornamentation or disruption of dominant facade lines are examples of sign design problems considered unacceptable.

(b) The sign's color and value (shades of light and dark) should be harmonious with building materials. Strong

contrasts in color or value between the sign and building that draw undue visual attention to the sign at the expense of the overall architectural composition shall be avoided.

(c) In the case of a lighted sign, a reverse channel letter that silhouettes the sign against a lighted building face is desirable. Lighting of a sign should be accompanied by accent lighting of the building's distinctive architectural features and especially the facade area surrounding the sign. Lighted signs on unlit buildings are unacceptable. The objective is a visual lighting emphasis on the building with the lighted sign as subordinate.

(d) Feature lighting of the building, including exposed light elements that enhance building lines, light sculpture or kinetic displays that meet the criteria of the Dade County art-in-public places ordinance, shall not be construed as signage subject to these regulations.

8. Procedure for review of decision by planning and zoning director to issue Class II Special Permit based on UDRB's recommendation. Such decisions by the planning and zoning Director may be appealed in accordance with Article 15 of the Zoning Ordinance.

Section 10.8. Nonconforming signs

The following provisions shall apply to signs as a nonconforming characteristic of use:

10.8.1. Removal in residential districts. In all residential districts, legal, nonconforming signs shall be removed within one (1) year of the effective date of Ordinance No. _____, or within that period such signs shall be made to conform; provided, however, that nonconforming nonresidential uses in residential districts shall be permitted to

maintain signs as provided in regulations for the first district in which such uses would be conforming.

10.8.2. Removal in other districts. In any district other than residential, any sign or outdoor advertising signs which become nonconforming as a result of the adoption of Ordinance No. shall be removed within five (5) years after the effective date of said Ordinance subject to the following further limitations on such continuance:

(a) Article XXIV, section 1, subsection 7(a), and article XXVIII, section 3, subsection 3(a), Ordinance No. 6871, as amended, repealed by Ordinance No. 9500, as amended, the same being provisions dealing with roof signs and requiring their termination and removal from the premises on which they are located not later than twelve (12) years following the date they became nonconforming, shall continue to be operative and given full force and effect. All legal proceedings begun and all legal proceedings that might have been begun under these provisions of Ordinance No. 9500, as amended, prior to the repeal of Ordinance No. 9500, as amended, shall be given full force and effect as though Ordinance No. 9500, as amended, had not been repealed.

(b) Section 926.12. "Signs of graphic or artistic value" of ordinance 11000, as amended, the Zoning Ordinance of the City of Miami, is repealed by the adoption of Ordinance No. and all existing signs of graphic or artistic value shall be removed from the premises on which they are located not later than five (5) years from the effective date of this Ordinance; however, all legal proceedings begun and all legal proceedings that might have been begun under the provisions of Ordinance No. 11000, as amended, governing signs of graphic or artistic value, prior to the

repeal of the above referenced subsections of Ordinance No. 11000, as amended, shall be given full force and effect as though said subsections had not been repealed.

(c) Section 926.15. Outdoor advertising signs. Ordinance 11000, adopted in 1990, the Zoning Ordinance of the City of Miami is hereby repealed to the extent it is inconsistent with this Article and deals with "Outdoor advertising signs." Nothing, however, in this Article shall affect those provisions of Section 926.15 requiring the termination and removal of freestanding outdoor advertising signs from the premises on which they were located not later than five (5) years following the date they became nonconforming as a result of the passage of Ordinance No. 11000 in 1990, and such provisions shall continue to be operative and given full force and effect. Moreover, nothing in this Article shall affect any legal proceedings begun and all legal proceedings that might have been begun under the provisions of Ordinance No. 11000 adopted in 1990, and such proceedings shall be given full force and effect.

Section 10.8.3. Outdoor advertising signs which are freestanding; Continuance of nonconformity.

10.8.3.1. All outdoor advertising signs which are free-standing and that became nonconforming as a result of the adoption of Ordinance 11000 in 1990, such that the five (5) year amortization period allowed therein has expired, shall not be considered eligible for a Class II Special Permit as set forth in section 10.8.3.3 below.

10.8.3.2. All outdoor advertising signs which are free-standing, were lawfully erected and have become a non-conforming sign as a result of the adoption of Ordinance No. _____ shall be removed within five (5) years of the effective date of said Ordinance, provided however that

such signs may be eligible to remain standing following the expiration of the amortization period specified herein subject to:

1. The issuance of a Class II Special Permit as set forth herein; the expressed intent of such Class II Permit is to improve the visual aesthetics of such signs as a condition for remaining. No such signs shall be permitted to remain if they were not legally constructed when such signs were permissible within the specified zoning district.

2. Any nonconforming outdoor advertising sign which is freestanding and is eligible for a Class II special permit to remain standing, must file for such permit no later than one hundred twenty (120) days from the date the five (5) year amortization period expires on their nonconforming status.

Section 10.8.3.3. Criteria. Any outdoor advertising sign which is freestanding and eligible for a Class II Permit to remain must comply with the criteria specified in Section 1305 of this zoning ordinance and additionally, with the following limitations and restrictions:

a. Sign structures supported by multiple I-beams shall be replaced with monopole structures.

b. All sign structures shall be limited to an overall height of 30 feet as measured to the top of the sign structure from the crown of the nearest adjacent roadway, except when located within 660 feet from an elevated limited access highway in which case the overall height shall be 40 feet; only embellishments may be taller, but in no case shall embellishments exceed an additional five (5) feet in height.

c. Sign area shall not exceed 672 square feet; with embellishments not to exceed an additional 10 percent of the sign area.

d. Monopole sign structures shall be painted, and maintained, to a uniform color (to be selected by the Planning and Zoning Department).

e. Sign lighting shall be enhanced, when applicable or deemed appropriate pursuant to the Class II Special Permit review process, to consist of decorative lighting fixtures, in an effort to enhance the appearance of such signs along corridors which abut residential areas.

f. Any such signs eligible to remain, pursuant to this subsection, shall comply with the following landscape requirements for screening the monopole structures to the extent possible: One (1) shade tree for the first five hundred (500) square feet of site area and one (1) side shade tree for each additional one thousand (1,000) square feet or portion thereof of site area; the remainder of the site area shall be landscaped with equal portions of hedges and/or shrubs and living ground cover. If the remainder of the subject site is already landscaped to a level which complies with the city's landscape guides and standards, then no additional landscaping, other than that required for screening the monopole structure, will be required; such landscaping requirements will be determined through the Class II Special Permit process. The City encourages xeriscaping of sites with native plants which do not require irrigation; unless sites are landscaped with native xeriscape plants, site landscaping shall be provided with irrigation and shall be continuously maintained; such landscape requirements may be modified or waived by the Planning and Zoning Director upon a finding that there is

insufficient room for a reasonable provision of landscaping on the specific site in question; such modification or waiver requests shall be accompanied by a landscape mitigation plan which enhances landscaping in the nearby area.

g. Any such signs eligible to remain shall be maintained in accordance with the requirements of this subsection and the City's appearance code (as specified in Chapter 10 of the City Code of the City of Miami, as amended).

h. Any such signs eligible to remain shall pay mitigation fees as specified in Chapter 62, Article X of the City Code of the City of Miami, as amended, as an additional condition of the Class II Special Permit.

10.8.3.4. Any lawfully erected outdoor advertising sign which is located along any portion of the interstate or federal-aid primary highway system and which becomes a nonconforming sign as a result of the adoption of Ordinance No. _____ is not subject to removal after the expiration of the five (5) year amortization period set forth herein.

10.8.4. Landscaping modifications. All outdoor advertising signs which are freestanding, were lawfully erected and have become a nonconforming sign as a result of the adoption of Ordinance No. _____ may obtain a waiver or modification of the landscaping requirements for such sites as required in Section 926.15, subject to the issuance of a Class II Special Permit as set forth herein; the expressed intent of such Class II Permit is to improve the visual aesthetics of such signs while allowing flexibility with respects to landscaping requirements. Such waivers may include waivers for landscaping the entire site if the remainder of the subject site is already landscaped to a level which complies with the city's landscape guides and

standards, other than that required for screening the monopole structure, which will be required; such modified landscaping requirements will be determined through the Class II Special Permit process. The City encourages xeriscaping of sites with native plants which do not require irrigation; unless sites are landscaped with native xeriscape plants, site landscaping shall be provided with irrigation and shall be continuously maintained; such landscape requirements may be modified or waived by the Planning and Zoning Director upon a finding that there is insufficient room for a reasonable provision of landscaping on the specific site in question; such modification or waiver requests shall be accompanied by a landscape mitigation plan which enhances landscaping in the nearby area.

10.8.5. Rescission: the Director of the Planning and Zoning Department may rescind any Class II Special permit granted under these sections 10.8.3 and 10.8.4 for failure to maintain such sign in appropriate condition and repair; such decisions by the Planning and Zoning Director may be rendered after a 60 day written notice from the City and a finding that no corrections to the violations have been made; such decisions by the Planning and Zoning Director may be appealed in accordance with Articles 15 and 18 of the Zoning Ordinance.

10.9. Severability. If any section, subsection, sentence, clause, or phrase of Article 10 is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of Article 10. The City Commission hereby declares that it would have passed Ordinance No. _____, and each section, subsections, sentence, clause and phrase thereof, irrespective of the fact that any one or more of the sections, subsections, sentences,

clauses or phrases hereof be declared invalid or unconstitutional.

The invalidation of the application of any section, sentence, clause, phrase, word, portion, or provision of Article 10 to a particular property or structure, or any particular properties or structures, by any court of competent jurisdiction shall not affect the application of such section, sentence, clause, phrase, word, portion or provision to any other property or structure not specifically included in the invalidation.

* * *

ARTICLE 11. NONCONFORMITIES

* * *

1107.2. Signs.

See Article 10 for regulations and limitations concerning signs as a nonconforming characteristic of use.

~~The following provisions shall apply to signs as a nonconforming characteristic of use:~~

~~1107.2.1. Removal in residential districts. In all residential districts, nonconforming signs shall be removed within one (1) year of the effective date of this ordinance or its amendment, or within that period such signs shall be made to conform; provided, however, that nonconforming nonresidential uses in residential districts shall be permitted to maintain signs as provided in regulations for the first district in which such uses would be conforming.~~

~~1107.2.2. Removal in other districts. In any district other than residential, any sign, billboard, or commercial advertising structure which constitutes a nonconforming characteristic of use may be continued, provided no structural~~

~~alterations are made thereto, subject to the following limitations on such continuance:~~

~~(a) Any such sign except a roof sign shall be completely removed from the premises within five (5) years from the date it became nonconforming;~~

~~(b) Article XXIV, Section 1, subsection 7(a), and article XXVIII, section 3, subsection 3(a), Ordinance No. 6871, as amended, repealed by Ordinance No. 9500, as amended, the same being provisions dealing with roof signs and requiring their termination and removal from the premises on which they are located not later than twelve (12) years following the date they became nonconforming, shall continue to be operative and given full force and effect. All legal proceedings begun and all legal proceedings that might have been begun under these provisions of Ordinance No. 9500, as amended, prior to the repeal of Ordinance No. 9500, as amended, shall be given full force and effect as though Ordinance No. 9500, as amended, had not been repealed.~~

* * *

ARTICLE 25. DEFINITIONS

Sec. 2500. General definitions.

For the purpose of this zoning ordinance, certain terms or words used herein are defined and shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

App. 471

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The word "shall" is mandatory. The word "may" is permissive.

The words "used" or "occupied" include the words "intended," "designed," or "arranged to be used or occupied."

The word "lot" includes the words "plot," "parcel," or "tract."

The word "structure" includes the word "building" as well as other things constructed or erected on the ground, attached to something having location on the ground, or requiring construction or erection on the ground.

The word "land" includes the words "water," "marsh" or "swamp."

Bulletin board, community or neighborhood. ~~An outdoor display device~~ Sign structure intended and reserved for the free and informal posting of temporary notices by individuals or public or quasi-public organizations, clubs, and the like. ~~Such notices may include announcements of neighborhood or community wide meetings, entertainments or events, lost and found notices, notices offering or seeking employment, notices offering to buy or sell, or seeking or offering transportation or accommodations.~~

* * *

Changeable copy sign. Sign on which copy can be changed either in the field or by remote means.

* * *

Church. A building or structure which by design and construction is primarily intended for the conduct of organized religious services and associated accessory uses. This term does not carry secular connotation and includes the buildings or other locations in which the religious services of any denomination are held. This definition may include meditation gardens.

* * *

Kiosk. A freestanding bulletin board having more than two (2) faces.

* * *

Marquee. A permanent, roofed structure that is attached to and supported by a building and that projects over a public right-of-way.

* * *

Media Tower. A structure that may serve as a viewing tower and a kinetic illuminated media display system, utilizing signage, video and all other forms of animated illuminated visual message media within the Southeast/Overtown Park West Redevelopment Area.

It is intended that such a structure shall be used to achieve an overall effect and aesthetic consistency within the private-owned properties within the District based upon criteria provided for and set forth in the implementing zoning ordinance provisions and applicable provisions of Chapter 163, Part III, Florida Statutes referred to herein as the Community Redevelopment Act of 1969, and in the implementing provisions of this ordinance.

Implementation:

The Miami Media Tower shall exist solely in the Southeast Overtown/Park West Redevelopment Area.

Such a "Media Tower", inclusive of animated signage, shall not be implemented until such time that a Master-plan for the Community Redevelopment Area is completed, and an appropriate location for such a project is identified.

Criteria

It is the purpose of the Miami Media Tower to (a) define an area in the City where signage of this type can be placed on a tower(s) that together with architectural design standards for buildings within the area as well as urban design standards based on new urbanist principles in the area of the City will establish a unique local, regional and national identity within the District; (b) strengthen the economy of the City by encouraging the development and redevelopment of a depressed, blighted and slum area within a major redevelopment area within the downtown core of the City; and (c) provide a source of funds to be used exclusively within said redevelopment area for redevelopment related activities, and nothing else.

Permitting:

A Class II Special Permit shall be required for all such signs specified herein. All applications shall require a mandatory review ~~and approval~~ by the Urban Development Review Board and approval by the Executive Director of the CRA.

* * *

Outdoor advertising business. The business use of providing outdoor displays or display space on a lease or rental basis for general advertising and not primarily or necessarily for advertising related to the premises on which erected. Such use shall be considered a separate business use of a site subject to licensing and conformance of the permitted use of the outdoor advertising sign shall be considered independently.

~~Outdoor advertising business. An establishment which provides outdoor displays or display space on a lease or rental basis for general advertising and not primarily or necessarily for advertising related to the premises on which erected. Outdoor advertising signs shall be construed as including any billboards, poster panels, or other displays or display spaces or surfaces used in the conduct of the outdoor advertising business.~~

Outdoor advertising sign. Sign where the sign copy does not pertain to the use of the property, a product sold, or the sale or lease of the property on which the sign displayed and which does not identify the place of business as purveyor of the merchandise or services advertised on the sign. Any outdoor advertising signs located on a site is considered a separate business use of that site and conformance of the permitted use of the outdoor advertising sign shall be considered independently.

* * *

~~Sign. Any display that informs or attracts the attention of persons not on the premises on which it is located; provided, however that the following shall not be included in the application of these regulations:~~

- ~~(a) Signs not exceeding one (1) square foot in area and bearing only property numbers, postbox numbers, names of occupants of premises, or other identification of premises not having commercial connotations;~~
- ~~(b) Flags and insignia of any government except when displayed in connection with commercial promotion;~~
- ~~(c) Legal notices;~~
- ~~(d) Identification, informational or directional signs erected or required by governmental bodies;~~
- ~~(e) Integral ornamental or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.~~

Sign. Any identification, description, illustration, or device, illuminated or nonilluminated, that is visible from a public right-of-way or is located on private property and visible to the public and which directs attention to a product, place, activity, person, institution, business, message or solicitation, including any permanently installed or situated merchandise, with the exception of window displays, and any letter, numeral, character, figure, emblem, painting, banner, pennant, placard, or temporary sign designed to advertise, identify or convey information.

The following are specifically excluded from this definition of "sign":

1. Governmental signs and legal notices.
2. Signs not visible beyond the boundaries of the lot or parcel upon which they are located, or from any public right-of-way.

3. Signs displayed within the interior of a building which are not visible from the exterior of the building.
4. National flags and flags of political subdivisions.
5. Weather flags.
6. Address numbers, provided they do not exceed two square feet in area.
7. Signs located in the public right-of-way are governed by Chapter 54 of the City Code.

Sign, address. Signs limited in subject matter to the street number and/or postal address of the property, the names of occupants, the name of the property, and, as appropriate to the circumstances, any matter permissible in the form of notice, directional, or warning signs, as defined below. Names of occupants may include indications as to their professions, but any sign bearing advertising matter shall be construed to be an advertising sign, as defined below.

Sign, advertising. Signs intended to promote the sale of goods or services, or to promote attendance at events or attractions. Except as otherwise provided, any sign bearing advertising matter shall be considered an advertising sign for the purposes of these regulations.

Sign, animated. Any sign or part of a sign, which changes physical position by any movement, or rotation, or which gives the visual impression of such movement or rotation. ~~Such displays are prohibited.~~

Sign, revolving or whirling. A revolving or whirling sign is an animated sign, which revolves or turns, or has external sign elements that revolve or turn, at a speed greater than

six (6) revolutions per minute. Such sign may be power-driven or propelled by the force of wind or air.

Sign, banner. A sign made from flexible material suspended from a pole or poles, or with one (1) or both ends attached to a structure or structures. Where signs are composed of strings of banners, they shall be construed to be pennant or streamer signs.

Sign, canopy, or awning. A sign painted, stamped, perforated, stitched or otherwise applied on the valance of an awning, eyelid or other protrusion above or around a window, door or other opening on a facade.

Sign, construction. A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of individuals or entities associated with, participating in or having a role or interest with respect to the project. Notable features of the project under construction may be included in construction signs by way of text and/or images.

Sign, development. Onsite signs announcing features of proposed developments, or developments either completed or in process of completion.

Sign, flashing. A sign which gives the effect of intermittent movement, or which changes to give more than one (1) visual effect.

Sign, frontage, as related to regulation. Notwithstanding definitions in this zoning ordinance referring to lot frontage, for the purpose of regulating the number of signs, the term "fronting on a street," "street frontage," or "frontage" shall be construed as adjacent to a street, whether at the front, rear, or side of a lot.

Sign, ground or freestanding. Any non-movable sign not affixed to a building, a self supporting sign. Ground signs shall be construed as including signs mounted on poles or posts in the ground, signs on fences, signs on walls other than the walls of buildings, signs on sign vehicles, portable signs for placement on the ground (A-frame, inverted T-frame and the like), signs on or suspended from tethered balloons or other tethered airborne devices, and signs created by landscaping. (See "portable sign" below).

Sign, hanging. A projecting sign suspended vertically from and supported by the underside of a canopy, marquee, awning or from a bracket or other device extending from a structure.

Sign, home occupation. A sign containing only the name and occupation of a permitted home occupation.

Sign, identification. A sign, limited to the name, address and number of a building, institution or person and to the activity, carried on in the building or institution or the occupation of the person.

Sign, illuminated. A sign illuminated in any manner by an artificial light source. Where artificial lighting making the sign visible is incidental to general illumination of the premises, the sign shall not be construed to be an illuminated sign.

Sign, indirectly illuminated. A sign illuminated primarily by light directed toward or across it or by backlighting from a source not within it. Sources of illumination for such signs may be in the form of gooseneck lamps, spotlights, or luminous tubing. Reflectorized signs depending on automobile headlights for an image in periods of darkness shall be construed to be indirectly illuminated signs.

Sign, internally (or directly) illuminated. A sign containing its own source of artificial light internally, and dependent primarily upon such source for visibility during periods of darkness.

Sign, notice, directional, and warning. For the special purposes of these regulations, and in the interest of protecting life and property, notice, directional, and warning signs are defined as signs limited to providing notice concerning posting of property against trespass, directing deliveries or indicating location of entrances, exits and parking on private property, indicating location of buried utilities, warning against hazardous conditions, prohibiting salesmen, peddlers, or agents, and the like.

~~Sign, offsite. A sign other than an onsite sign. The term includes, but is not limited to, signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.~~

Sign, offsite. A sign depicting or conveying either commercial or noncommercial messages, or combinations thereof, and not related to the uses or premises on which erected.

~~Sign, onsite. A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. Onsite signs shall not be construed to include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business.~~

Sign, onsite. A sign depicting or conveying either commercial or noncommercial messages, or combinations thereof, which are directly related to the uses or premises on which erected.

~~Sign, outdoor advertising. A sign which provides outdoor displays or display space on a lease or rental basis for general advertising and not primarily or necessarily for advertising related to the premises on which erected. Outdoor advertising signs shall be construed as including any billboards, poster panels, or other displays or display spaces or surfaces used in the conduct of the outdoor advertising business.~~

Sign, pennant or streamer. Pennant or streamer signs or signs made up of strings of pennants, or composed of ribbons or streamers, and suspended over open premises and/or attached to buildings.

Sign, portable. A sign, not permanently affixed to a building, structure or the ground.

Sign, projecting. A sign wholly or partially attached to a building or other structure and which projects more than twelve (12) inches from its surface.

Sign, real estate. Signs used solely for the purpose of offering the property on which they are displayed for sale, rent, lease or inspection or indicating that the property has been sold, rented, or leased. Such signs shall be nonilluminated and limited in content to the name of the owner or agent, an address and/or telephone number for contact, and an indication of the area and general classification of the property. Real estate signs are distinguished in these regulations from other forms of advertising signs and are permitted in certain districts and locations from which other forms of advertising signs ~~are~~ excluded.

Sign, roof. A sign affixed in any manner to the roof of a building, or a sign mounted in whole or in part on the wall of the building and extending above the eave line of a

pitched roof or the roof line (or parapet line, if a parapet exists) of a flat roof.

Sign, temporary. A sign or advertising display intended to be displayed for a limited and brief period of time.

~~Sign, time and temperature. A sign conveying messages (that may be lighted) indicating time, temperature, tide change, barometric pressure, or wind speed and direction; by means of illuminated letters or numbers with change intervals for such messages of not less than four (4) seconds. For purposes of these regulations, time and temperature signs shall not be construed to be flashing signs or animated signs.~~

Sign, vehicle. A trailer, automobile, truck, or other vehicle used primarily for the display of signs (rather than with sign display incidental to use of the vehicle for transportation). ~~For purposes of these regulations, signs on sign vehicles shall be considered to be ground signs except for temporary political or civic campaign signs on sign vehicles.~~

Sign, wall or flat. A sign painted on the outside of a building, or attached to, and erected parallel to the face of a building, and supported throughout its length by such building.

Sign, window. A sign painted, attached or affixed in any manner to the interior or exterior of a window which is visible, wholly or in part from the public right-of-way.

Sign structure. A structure for the display or support of signs.

In addition, for purposes of these regulations, and notwithstanding the definition of structure generally applicable in these zoning regulations, any trailer or other vehicle, and any other device which is readily movable and designed or used primarily for the display of signs (rather than with signs as an accessory function) shall be construed to be a sign structure, and any signs thereon shall be limited in area, number, location, and other characteristics in accordance with general regulations and regulations applying in the district in which displayed.

Signs, area of. The surface area of a sign shall be computed as including the entire area within a parallelogram, triangle, circle, semicircle or other regular geometric figure, including all of the elements of the matter displayed, but not including blank masking (a plain strip, bearing no advertising matter around the edge of a sign), frames, display of identification or licensing officially required by any governmental body, or structural elements outside the sign surface and bearing no advertising matter. In the case of signs mounted back-to-back or angled away from each other, the surface area of each sign shall be computed. In the case of cylindrical signs, signs in the shape of cubes, or other signs, which are substantially three-dimensional with respect to their display surfaces, the entire display surface or surfaces shall be included in computations of area.

In the case of embellishments (display portions of signs extending outside the general display area), surface area extending outside the general display area and bearing advertising material shall be computed separately as part of the total surface area of the sign.

Notwithstanding definitions in this zoning ordinance referring to lot frontage, for the purpose of regulating the area of signs, the terms "fronting on a street," "street frontage," or "frontage" shall be construed as adjacent to a street, whether at the front, rear, or side of a lot. (See also diagram on number and area of signs.)

Signs, number of. For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of units, ~~where strings of lights are used,~~ or where there is a reasonable doubt about relationship of elements, each element ~~or light~~ shall be considered to be a single sign. Where sign surfaces are intended to be read from different directions (as in the case of signs back-to-back or angled from each other), each surface shall be considered to be a single sign.

Notwithstanding definitions in this zoning ordinance referring to lot frontage, for the purpose of regulating the number of signs, the term "fronting on a street," "street frontage," or "frontage" shall be construed as adjacent to a street, whether at the front, rear, or side of a lot.

* * *

Section 3. All ordinances or parts of ordinances insofar as they are inconsistent or in conflict with the provisions of this Ordinance are repealed.

Section 4. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 5. This Ordinance shall become effective thirty (30) days after the final reading and adoption thereof.²

PASSED ON FIRST READING BY TITLE ONLY this 7th day of March, 2002.

PASSED AND ADOPTED ON SECOND AND FINAL READING BY TITLE ONLY this 11th day of April, 2002.

/s/ Manuel A. Diaz
MANUEL A. DIAZ, MAYOR

ATTEST:

/s/ Priscilla A. Thompson
PRISCILLA A. Thompson
CITY CLERK

APPROVED AS TO FORM
AND CORRECTNESS:

/s/ [Illegible]
ALEJANDRO VILARELLO
CITY ATTORNEY

² This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.

J-02-161

02/25/02

ORDINANCE NO. 12214

AN ORDINANCE OF THE MIAMI CITY COMMISSION AMENDING CHAPTER 62, OF THE CODE OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, ENTITLED "ZONING AND PLANNING," BY CREATING A NEW ARTICLE X ENTITLED "STREETSCAPE MITIGATION TRUST FUND"; ESTABLISHING SAID FUND; SETTING FORTH INTENT AND PURPOSE; PROVIDING FOR ADMINISTRATION, REGULATIONS, AND FEE SCHEDULE FOR TRUST FUND PAYMENTS FROM "FREESTANDING OFFSITE ADVERTISING SIGNS" TO MITIGATE RELATED AND ASSOCIATED ADVERSE EFFECTS AND MAINTENANCE; MORE PARTICULARLY BY ADDING NEW SECTIONS 62-300 TO 62-302 TO SAID CODE; CONTAINING A REPEALER PROVISION AND A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, at the City Commission meeting of July 10, 2001, the Neighborhood Enhancement Team ("NET") provided a comprehensive report to the City Commission regarding the status of outdoor advertising signs in the City of Miami; and

WHEREAS, the City Commission wishes to institute a mechanism by which legal nonconforming freestanding offsite outdoor advertising signs, may remain, subject to a Class II Special Permit and payment of mitigation fees; and

WHEREAS, the mitigation fees shall be deposited into a trust fund, as specified herein, to provide a funding source to implement certain mitigation measures that will offset the negative visual impact of such outdoor advertising signs within other City neighborhoods, as appropriate;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. Chapter 62 of the Code of the City of Miami, Florida, as amended, entitled "Zoning and Planning" is further amended by adding new Article X, entitled "Streetscape Mitigation Trust Fund," in the following particulars:¹

CHAPTER 62

ZONING AND PLANNING

* * *

ARTICLE X.

STREETSCAPE MITIGATION TRUST FUND

Sec. 62-300. Establishment, intent and purpose of fund.

(a) The establishment, intent and purpose of the "Streetscape Mitigation Trust Fund" (the "trust fund") is to provide additional funding to mitigate adverse visual effects associated with certain uses or characteristics of

¹ Words and/or figures stricken through shall be deleted. Under-scored words and/or figures shall be added. The remaining provisions are now in effect and remain unchanged. Asterisks indicate omitted and unchanged material.

use of freestanding offsite advertising signs within the city.

(b) Fees shall be paid into the trust fund as specified herein. Disbursements from this trust fund may be utilized toward streetscape improvements beyond a base level, as may be required to mitigate adverse impacts imposed by such uses. Expenditures from this trust fund shall require authorization by the City Commission upon written recommendations from the directors of the departments of planning and zoning and public works.

Sec. 62-301. Administration and regulation.

(a) The trust fund into which funds shall be deposited and from which funds shall be withdrawn as set forth herein, shall facilitate public streetscape improvements associated with adverse visual effects imposed by certain uses or characteristics of use of freestanding offsite advertising signs within the city, through means which may include, but are not limited to the following activities by the city administration:

- (1) Acquire fee simple or other interest in land, and other real property for mitigation purposes (i.e. parks or other open spaces, which can be utilized as gateways into the City of Miami, and which can be enhanced in a manner that mitigates other negative visual effects associated with certain uses and characteristics of use);
- (2) Develop, implement and fund a streetscape improvement program (including, but not limited to landscaping, irrigation, street furniture, special paving

and special lighting) for those public rights-of-way in those areas where there is a need for mitigation due to adverse effects associated with certain uses or characteristics of use, to the extent necessary to curb such impacts as determined by the city commission with due consideration given to the recommendation of the director of the department of planning and zoning. The implementation and coordination of the trust fund shall be processed by the city manager;

- (3) Perform such other related activities as may be appropriate to carry out the intent of this article, including but not limited to maintenance of streetscapes and code enforcement activities as may be deemed necessary by the city manager to ensure compliance with sign regulations.

(b) It is the intent of this article that prior to expenditures pursuant to the above listed items by the city commission, that due consideration is given to written recommendations from the city manager, and directors of the departments of planning and zoning and public works.

(c) Funds deposited in the trust fund shall be made available to the city manager for implementation purposes. All disbursements of Trust Fund monies shall be made by the city commission, after due consideration is given to the written recommendations of the city manager and the directors of the departments of planning and zoning and public works.

(d) A financial report of trust fund receipts and expenditures shall be prepared annually at the close of the

fiscal year by the city manager and presented to the city commission.

Sec. 62-302. Schedule of fees and charges.

The schedule of fees and charges to be assessed and paid into the trust fund is as follows:

- (1) Mitigation fees for freestanding offsite advertising signs.
 - (a) Intent. It is intended that mitigation fees be assessed to freestanding outdoor advertising business signs to mitigate the negative visual effects associated with such signs on the city's streetscape. Said negative visual effects are specifically associated with the sizes of such signs and the visual clutter they impose on the city's streetscape. Mitigation funds assessed and collected pursuant to this section will be applied toward such streetscape projects to be identified by the city, as necessary to offset the direct negative visual effects associated with freestanding outdoor advertising signs.
 - (b) Applicability. Pursuant to Article 10, Section 10.8 of Ordinance No. 11000, as amended, the Zoning Ordinance of the City of Miami, Florida, nonconforming offsite advertising signs, which are eligible to remain after their five (5) year amortization period expires, pursuant to a Class II Special Permit, shall also be subject to mitigation fees, said mitigation fees will be established prior to the conclusion of one (1) year after the adoption of this ordinance, and, upon a study to be conducted by the Department of Planning and Zoning to determine the extent of the

negative visual effects and the appropriate mitigation fees required to offset those effects.

- (2) Late fees. Fees as set forth in this article shall be invoiced and payable at yearly intervals. Fees not paid within 15 days of the due date shall be charged a late fee of five percent (5%) of the amount due. Fees not paid within 30 days of the due date shall be charged interest at the rate of ten percent (10%) per annum calculated monthly on the unpaid balance, including applicable late fees.

* * *

Section 3. All ordinances or parts of ordinances that are inconsistent or in conflict with the provisions of this Ordinance are repealed.

Section 4. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

Section 5. This Ordinance shall become effective thirty (30) days after final reading and adoption thereof.³

PASSED ON FIRST READING BY TITLE ONLY this 7th day of March, 2002.

³ This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.

PASSED AND ADOPTED ON SECOND AND FINAL
READING BY TITLE ONLY this 11th day of April, 2002.

/s/ Manuel A. Diaz
MANUEL A. DIAZ, MAYOR

ATTEST:

/s/ PRISCILLA A. THOMPSON
PRISCILLA A. THOMPSON
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

/s/ ALEJANDRO VILARELLO
ALEJANDRO VILARELLO
CITY ATTORNEY

J/02/148

02/21/02

ORDINANCE NO. 12215

AN ORDINANCE OF THE MIAMI CITY COMMISSION ESTABLISHING A TEMPORARY MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR OUTDOOR ADVERTISING SIGNS REGULATED UNDER SECTION 926.15, ET SEQ., OF THE ZONING ORDINANCE OF THE CITY OF MIAMI; PROVIDING FOR A TERM; PROVIDING FOR PENDING APPLICATIONS; PROVIDING FOR ADMINISTRATIVE AND JUDICIAL REVIEW; CONTAINING A REPEALER PROVISION, A SEVERABILITY CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 1990, the City Commission adopted Ordinance No. 11000 prohibiting certain theretofore legal advertising structures in the C-1 and more restrictive zoning districts of the city of Miami, and granted a five year amortization period for the removal of all non-conforming structures in these Districts; and

WHEREAS, many of these advertising structures were not removed as required after the five-year amortization period expired in 1995, and remain in place today; and

WHEREAS, in 2000, the City Commission authorized the appointment of an Outdoor Advertising Review Committee ("Review Committee") to study issues and problems relating to sign regulations, enforcement, and proliferation of outdoor advertising ("billboards") in the City; and

WHEREAS, the majority of the Review Committee's membership were associated with the outdoor advertising industry, and thus the recommendations of the Review Committee suggested permitting more billboards of an even greater size in districts, without addressing issues of aesthetics and over-proliferation; and

WHEREAS, the city's planning and zoning staff found the recommendations of the Review Committee to be contrary to the best interests of the City, and therefore issued their own recommendations; and

WHEREAS, in May 2001, the City Commission directed the City Manager to schedule a public meeting in which the Administration and the billboard industry would review enforcement history, document any technical issues regarding billboard compliance and bring back recommendations to the City Commission; and

WHEREAS, at the City Commission's meeting of July 10, 2001, the Neighborhood Enhancement Team ("NET") provided a comprehensive report to the City Commission regarding the status of outdoor advertising signs in the City of Miami; and

WHEREAS, NET has determined that an extremely high number of outdoor advertising signs in the City do not conform with provisions of the City of Miami Zoning Ordinance, as amended; and

WHEREAS, the City Commission has determined to enforce its sign regulations, enforce the removal of all illegal signs, including those non-conforming signs whose amortization period has expired, and halt the aesthetically damaging proliferation of outdoor advertising signs in all areas of the City; and

WHEREAS, in response to actual litigation and other threats made by the outdoor advertising industry, and to codify the City's interpretation of its zoning Ordinance with respect to signage, consolidate zoning regulations relating to signage, and address and reduce the visual clutter and blight associated with outdoor advertising, the City Commission has determined to adopt a comprehensive, amended sign code addressing certain legal issues and reflecting recommendations made by the planning and zoning staff, including the prohibition on additional billboards in certain districts of the City; and

WHEREAS, a temporary moratorium on the acceptance of applications for new outdoor advertising signs in all zoning districts, regardless of content or message, will allow for an orderly remedial effort and requisite studies, without the counteracting impact which would accompany an increase, during the remedial process, of the very same matter.

WHEREAS, the Miami Planning Advisory Board, at its meeting of February 20, 2002, Item No. 9, following an advertised hearing, adopted Resolution No. PAB 18-02, by a vote of 8 to 0, recommending approval of imposing a temporary moratorium on the acceptance of applications for outdoor advertising signs, as hereinafter set forth, and

WHEREAS, the City Commission, after careful consideration of the mater [sic], deems it advisable and in the best interest of the general welfare of the City of Miami and its inhabitants to temporarily halt the acceptance of applications for outdoor advertising signs as hereinafter set forth:

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Ordinance are hereby adopted by reference thereto and incorporated herein as if fully set forth in this Section.

Section 2. There is hereby imposed, during the time that this Ordinance is in effect, as specified in Section 5 below, a moratorium on the acceptance of applications for new outdoor advertising (billboard) structures/locations regulated under Section 926.15, *et seq.*, of the Zoning Ordinance of the City of Miami.

Section 3. This moratorium shall apply solely to applications for permits to erect new outdoor advertising structures filed after the effective date of this Ordinance. Complete applications for such permits on file with the proper City departments filed prior to the effective date of this Ordinance, shall be exempt from this moratorium.

Section 4. Nothing in this Ordinance should be construed or applied to abrogate the vested right of a property owner to develop or utilize his/her property in any other way commensurate with zoning and other regulations, including the renewal of permits for existing legally erected outdoor advertising signs.

Section 5. The moratorium imposed by this Ordinance is temporary and, unless repealed earlier by the City Commission, shall automatically dissolve 120 days from the effective date of this Ordinance, whichever first occurs.

Section 6. Appeals from decisions and actions of the City under this Ordinance shall be pursuant to Section 2005 of Ordinance No. 11000, the Zoning Ordinance of the City of Miami.

Section 7. All ordinances or parts of ordinances insofar as they are inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

Section 8. If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions o [sic] this Ordinance shall not be affected.

Section 9. This Ordinance shall become effective thirty (30) days after the final reading and adoption thereof.¹

PASSED ON FIRST READING BY TITLE ONLY this 7th day of March, 2002.

PASSED AND ADOPTED ON SECOND AND FINAL READING BY TITLE ONLY this 11th day of April 2002.

/s/ Manuel A. Diaz
MANUEL A. DIAZ, MAYOR

ATTEST:

/s/ PRISCILLA A. THOMPSON
PRISCILLA A. THOMPSON
CITY CLERK

¹ This Ordinance shall become effective as specified herein unless vetoed by the Mayor within ten days from the date it was passed and adopted. If the Mayor vetoes this Ordinance, it shall become effective immediately upon override of the veto by the City Commission or upon the effective date stated herein, whichever is later.

App. 497

APPROVED AS TO FORM AND CORRECTNESS:

/s/ ALEJANDRO VILARELLO
ALEJANDRO VILARELLO
CITY ATTORNEY

J-02-354

04/11/02

RESOLUTION NO. 02-392

A RESOLUTION OF THE MIAMI CITY COMMISSION DIRECTING THE CITY MANAGER AND THE CITY ATTORNEY TO COMMUNICATE TO THE OUTDOOR ADVERTISING INDUSTRY ALL ISSUES RELATED TO BILLBOARDS THROUGH SPECIAL COUNSEL ONLY; FURTHER DIRECTING THE CITY MANAGER AND CITY ATTORNEY TO PROCEED WITH ALL CODE ENFORCEMENT BOARD CASES, USING ALL AVAILABLE RESOURCES, INCLUDING SPECIAL COUNSEL AND MULTIPLE SPECIAL MASTERS.

WHEREAS, the Florida Legislature has adopted House General Bill 0715, as amended, which Bill was signed into law on April 4, 2002, and is now known as Chapter No. 2002-13, Laws of Florida ("Billboard Law"); and

WHEREAS, the Billboard Law requires a process for governmental entities and owners of outdoor advertising billboards to enter into "relocation and reconstruction agreements" regarding outdoor advertising billboards whenever government entities remove or cause the removal of certain lawfully erected billboards, or cause the alteration of such billboards if the alternation [sic] constitutes a taking under state law, and further requires just compensation to billboard owners if agreements cannot be reached; and

WHEREAS, the Billboard law becomes effective July 1, 2002, and may have a significant adverse impact upon the ability of local municipalities such as the City of Miami to exercise Home Rule police powers with respect to the outdoor advertising industry; and

WHEREAS, the Billboard law may cause a significant financial burden upon municipalities such as the City of Miami if agreements cannot be reached to remove billboards, and if as a result "just compensation" must be paid to the -outdoor advertising industry for removal or alteration of outdoor advertising billboards; and

WHEREAS, it is in the best interests of the City and its residents that the City be prepared to address concerns and potential problems that will be caused by the Billboard law immediately upon its effective date; and

WHEREAS, to develop and implement necessary procedures and processes in light of the passage of the Billboard law, it is recommended that the law firm of Hogan & Hartson L.L.P. be appointed as special counsel to the Miami City Commission and City Manager;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Resolution are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. The City Manager and the City Attorney are directed to communicate to the outdoor advertising industry all issues related to billboards through Special Counsel only.

Section 3. The City Manager and City Attorney are directed to proceed with all Code Enforcement Board cases, using all available resources, including Special Counsel and multiple Special Masters.

Section 4. This Resolution shall become effective immediately upon its adoption and signature of the Mayor.¹

PASSED AND ADOPTED this 11th day of April, 2002.

/s/ Manuel A. Diaz, Mayor
MANUEL A. DIAZ, MAYOR

ATTEST:

/s/ Priscilla A. Thompson
PRISCILLA A. THOMPSON
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

/s/ Alejandro Vilarello
ALEJANDRO VILARELLO
CITY ATTORNEY

¹ If the Mayor does not sign this Resolution, it shall become effective at the end of ten calendar days from the date it was passed and adopted. If the mayor vetoes this Resolution, it shall become effective immediately upon override of the veto by the City Commission.

J-02-348

4/11/02

RESOLUTION NO. 02-393

A RESOLUTION OF THE MIAMI CITY COMMISSION DIRECTING THE CITY MANAGER, PURSUANT TO SECTION 2105.4 OF THE ZONING CODE, TO SUSPEND THE PROCESSING OF ALL PERMIT APPLICATIONS FOR THE ERECTION AND CONSTRUCTION OF OUTDOOR ADVERTISING STRUCTURES IN THE CITY OF MIAMI FOR A PERIOD OF SEVENTY-FIVE (75) DAYS IN LIGHT OF THE ENACTMENT OF CHAPTER LAW 2002-13, LAWS OF FLORIDA ("BILLBOARD LAW").

WHEREAS, the Florida Legislature has adopted House General Bill 0715, as amended, which Bill was signed into law on April 4, 2002 and is now known as Chapter No. 2002-13, Laws of Florida ("Billboard law"); and

WHEREAS, the Billboard law requires a process for governmental entities and owners of outdoor advertising billboards to enter into "relocation and reconstruction agreements" regarding outdoor advertising billboards whenever government entities remove or cause the removal of certain lawfully erected billboards, or cause the alteration of such billboards if the alternation [sic] constitutes a taking under state law, and further requires just compensation to billboard owners if agreements cannot be reached; and

WHEREAS, the Billboard law applies to "lawfully erected sign(s) the subject matter of which relates to

premises other than the premises on which it is located or to merchandise, services, activities, or entertainment not sold, produced, manufactured, or furnished on the premises on which the sign is located," and thus applies to lawfully erected outdoor advertising billboards in designated areas; and

WHEREAS, the Billboard law amends Sections 163.3180, 334.044, 339.135, and 479.15, Florida Statutes, and creates Sections 70.20 and 479.25, Florida Statutes, and amends the term "federal-aid primary highway system" as used in the Billboard law; and

WHEREAS, the Billboard law becomes effective July 1, 2002, and may have a significant adverse impact upon the ability of local municipalities such as the City of Miami to exercise Home Rule police powers with respect to the outdoor advertising industry; and

WHEREAS, the Billboard law may cause a significant financial burden upon municipalities such as the City of Miami if agreements cannot be reached to remove billboards, and if as a result "just compensation" must be paid to the outdoor advertising industry for removal or alteration of outdoor advertising billboards; and

WHEREAS, it is in the best interests of the City and its residents that the City be prepared to address concerns and potential problems that will be caused by the Billboard law immediately upon its effective date; and

WHEREAS, the short period of time that remains before the effective date of the Billboard law has created an emergency in that there is an immediate need for the City to develop processes and procedures necessary to implement the Billboard law in a manner that is in the

best interests of the City and its residents, no later than July 1, 2002; and

WHEREAS, it is in the best interests of the residents of the City that the City Manager be directed to develop, with City staff, the processes and procedures necessary to implement the Billboard law in a manner that is in the best interests of the City and its residents, and minimizes any potential financial burden to City residents; and

WHEREAS, it is in the best interests of the City that until such processes and procedures are in place, and for a period not to exceed 75 days from the date hereof, that the City Manager temporarily suspend the processing of permit applications for the erection and construction of outdoor advertising structures in the City of Miami;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Resolution are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. The City Manager is directed, pursuant to Section 2105.4 of the Zoning Code, to suspend the processing of all permit applications for the erection and construction of outdoor advertising structures in the City of Miami for a period of seventy-five (75) days in light of the enactment of Chapter Law 2002-13, Laws of Florida ("Billboard Law").

Section 3. This Resolution shall become effective immediately upon its adoption and signature of the Mayor.¹

PASSED AND ADOPTED this 11th day of April, 2002.

/s/ Manuel A. Diaz
MANUEL A. DIAZ, MAYOR

ATTEST:

/s/ PRISCILLA A. THOMPSON
PRISCILLA A. THOMPSON
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

/s/ ALEJANDRO VILARELLO
ALEJANDRO VILARELLO
CITY ATTORNEY

¹ If the Mayor does not sign this Resolution, it shall become effective at the end of ten calendar days from the date it was passed and adopted. If the Mayor vetoes this Resolution, it shall become effective immediately upon override of the veto by the City Commission.



JAN 17 2006

OFFICE OF THE CLERK

IN THE
Supreme Court of the United States

NATIONAL ADVERTISING CO.,

Petitioner,

v.

CITY OF MIAMI,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

BRIEF IN OPPOSITION

JORGE F. FERNANDEZ

City Attorney

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Attorneys for Respondent



QUESTIONS PRESENTED

I. Whether—as held by every court of appeals to address the issue—the repeal of an ordinance challenged on First Amendment grounds moots a civil challenge to the law, where there is no evidence that the government intends to reenact the law?

II. [For the reasons stated in our argument, we are unable to agree with the question presented by the Petitioner, and are also unable to present an alternative question.]

TABLE OF CONTENTS

	<i>Page</i>
Questions Presented	i
Table of Contents	ii
Table of Cited Authorities	iii
Statement of the Case	1
Reasons for Denying the Petition	5
I. The unanimous decisions of the circuit courts on the standard for determining the mootness of First Amendment challenges in <i>civil</i> cases do not conflict with this Court's decisions on the standard for determining mootness in <i>criminal</i> cases	5
II. The circuit court, which found the Plaintiff's claims to be moot, did not decide—much less create conflict on—the issue of the standing of those with commercial interests to raise the noncommercial speech interests of third parties	11
Conclusion	14

TABLE OF CITED AUTHORITIES

	<i>Page</i>
Cases:	
<i>American Legion Post 7 v. City of Durham</i> , 239 F.3d 601 (4th Cir. 2001)	8
<i>Brandywine, Inc. v. City of Richmond</i> , 359 F.3d 830 (6th Cir. 2004)	8
<i>Brazos Valley Coalition for Life v. City of Bryan</i> , 421 F.3d 314 (5th Cir. 2005)	8
<i>Coral Springs Street Systems v. City of Sunrise</i> , 371 F.3d 1320 (11th Cir. 2004)	7-8
<i>Davis v. United States</i> , 417 U.S. 333 (1974)	13
<i>D.H.L. Associates v. O'Gorman</i> , 199 F.3d 50 (1st Cir. 1999)	8
<i>Diffenderfer v. Central Baptist Church of Miami</i> , 404 U.S. 412 (1972)	6
<i>Federation of Advertising Industry Representatives</i> <i>v. City of Chicago</i> , 326 F.3d 924 (7th Cir. 2003)	7, 8
<i>Kentucky Right to Life v. Terry</i> , 108 F.3d 637 (6th Cir. 1997)	8

Cited Authorities

	<i>Page</i>
<i>Knight Riders of Ku Klux Klan v. City of Cincinnati</i> , 72 F.3d 43 (6th Cir. 1995)	8
<i>Kraimer v. City of Schofield</i> , 342 F. Supp. 2d 807 (W.D. Wisc. 2004)	10
<i>Kremens v. Bartley</i> , 431 U.S. 119 (1977)	6-7
<i>Lamar Advertising v. Town of Orchard Park</i> , 356 F.3d 365 (2nd Cir. 2004)	8
<i>Lewis v. Continental Bank Corp.</i> , 494 U.S. 472 (1990)	6, 7
<i>Massachusetts v. Oakes</i> , 491 U.S. 576 (1989)	5, 9, 10
<i>National Advertising Co. v. City of Fort Lauderdale</i> , 934 F.2d 283 (11th Cir. 1991)	8
<i>National Advertising Co. v. City of Miami</i> , 287 F. Supp. 2d 1349 (S.D. Fla. 2003)	12
<i>National Advertising Co. v. City of Miami</i> , 402 F.3d 1329 (11th Cir. 2005)	<i>passim</i>
<i>National Black Police Association</i> <i>v. District of Columbia</i> , 108 F.3d 346 (D.C. Cir. 1997)	8

Cited Authorities

	<i>Page</i>
<i>Osborne v. Ohio</i> , 495 U.S. 109 (1990)	5, 9, 10, 11
<i>Reyes v. City of Lynchburg</i> , 300 F.3d 449 (4th Cir. 2002)	8
<i>Rich v. City of Ontario</i> , 10 Fed. Appx. 583 (9th Cir. 2001)	8
<i>Seay Outdoor Advertising v. City of Mary Esther</i> , 397 F.3d 943 (11th Cir. 2005)	8
<i>Sorano v. Clark County</i> , 345 F.3d 1117 (9th Cir. 2003)	8
<i>Stephenson v. Davenport Community School District</i> , 110 F.3d 1303 (8th Cir. 1997)	8
<i>Tanner Advertising Group v. Fayette County</i> , 411 F.3d 1272 (11th Cir. 2005)	13

STATEMENT OF THE CASE

The Petitioner's statement of the case does not adequately describe the facts. We rely on the facts as stated in the opinion of the circuit court:

In March of 1990, the City of Miami adopted a comprehensive Zoning Ordinance that is the subject matter of this suit. Ordinance No. 11,000 divided the City into 24 geographical areas and enacted a comprehensive scheme of regulations applicable to property located in each area. The ordinance was enacted with, among other goals, the purposes of "promot[ing] the public health [and] safety . . . provid[ing] a wholesome, serviceable, and attractive community" and "increas[ing] traffic safety." Miami, Fla., Zoning Ordinance § 120 (1991). While the zoning code governed all aspects of land use within the Miami City limits, some regulations focused on billboards and signs throughout the City. However, the City provided a grace period of five years for advertisers, like National, with existing structures already erected to remove nonconforming billboards.

National is a Delaware corporation and a wholly-owned subsidiary of Viacom Outdoor Inc., a corporation formerly known as Infinity Outdoor, Inc. National is a leader in the outdoor advertising industry, specializing in the leasing of billboards, and has operated in Miami for approximately forty years. National normally constructs its billboards on either leased or purchased property and then rents space on the billboards to advertisers. National operates more than forty outdoor advertising signs

in various locations throughout the City of Miami. Most of National's billboards display commercial messages, however a few of them display non-commercial, public interest messages.

After nearly a decade of non-enforcement of the Zoning Ordinance's billboard provisions, in April 2001 the City commenced enforcement by issuing notices to property owners who had nonconforming billboards on their property. The notices advised the property owners that they were in violation of the City's zoning code and told the owners to correct the violations by May 2001, or face fines and other penalties brought by the City's Code Enforcement Board. On July 10, 2001, the Miami City Commission authorized the City manager to arrange a Commission meeting where the City Commission could make findings that would justify the City's removal of billboards without notice and to hold outdoor advertising companies in contempt of the City Commission. The next day, National filed this action in district court. While National engages in predominantly commercial advertising, its complaint invoked the free speech overbreadth doctrine and alleged that the City's Zoning Ordinance discriminated against non-commercial speech in violation of the First and Fourteenth Amendments, lacked procedural safeguards in violation of the First Amendment, and that the City's decision to begin immediate removal of signs violated Due Process and the First Amendment.

Shortly after filing its complaint, National moved for an injunction to prevent the City of Miami from acting to remove signs or enforce the ordinance. The district court denied National's motion for injunctive relief, and National appealed. In an unpublished opinion, *Nat'l Adver. Co. v. City of Miami*, 48 Fed. Appx. 740 (11th Cir. 2002), we vacated the district court's denial of National's motion and remanded to the district court for further consideration. Thereafter, National amended its complaint, alleging three new claims. National asserted (1) that the City's refusal to stay the accrual of code enforcement fines during the pendency of litigation discriminated against National for its exercise of its First and Fourteenth Amendment rights, (2) that the discriminatory acts of the City and Miami-Dade County violated the First Amendment and the Equal Protection Clause, and (3) that the City and the County's lack of procedural safeguards violate the First Amendment. Additionally, National sought another injunction.

After National filed its first suit against the City, the City began the process of amending its zoning regulations pertaining to signs. On January 5, 2002 the City published notice of its intent to amend the Zoning ordinance and those amendments were adopted on April 11, 2002. The amendments changed many aspects of the City's sign code but specifically clarified that non-commercial speech may be placed on any sign where commercial speech was permitted.

In September 2003, the district court entered an order granting summary judgment to the City of Miami and denying National's motion for summary judgment. The district court held that National lacked standing under the overbreadth doctrine to enforce the rights of non-commercial speakers. Additionally, the court held that, assuming National did have standing to enforce the rights of non-commercial speakers, the zoning ordinance did not violate the First Amendment.

National Advertising v. City of Miami, 402 F.3d 1329, 1330-31 (11th Cir. 2005) (footnotes omitted) (App. 2-5).

The circuit court concluded that the City of Miami's amendments to its zoning code "effectively rendered moot National's claims as to the constitutionality of the prior version of the code." (App. 13). The circuit court explained:

[T]he City's revised zoning ordinance mooted National's claims that the City impermissibly favored commercial speech over non-commercial speech. The new zoning ordinance altered completely the City's regulations pertaining to commercial and non-commercial speech. The amendments made clear that non-commercial messages would be permitted anywhere commercial messages were allowed. Additionally, the amendment contained a "substitution clause" that stated that "[a]ny sign allowed herein may contain, in lieu of any other message or copy, any lawful, non-commercial message, so long as the sign complies with the size and height, area, and other requirements." Finally, Ordinance 12,213

amended the City's definition of onsite signs to make it clear that all non-commercial messages were considered onsite. These amendments changed the zoning code so that the allegedly unconstitutional portions of the City's zoning ordinance no longer exist.

(App. 11-12).

The circuit court also found that there was no evidence that the City of Miami would subsequently reenact its former zoning provisions. (App. 11). The court accordingly concluded that National Advertising's claims were moot.

REASONS FOR DENYING THE PETITION

I.

The unanimous decisions of the circuit courts on the standard for determining the mootness of First Amendment challenges in *civil* cases do not conflict with this Court's decisions on the standard for determining mootness in *criminal* cases

There is no reason for the Court to grant the writ. The circuit court's decision was consistent with that of every other circuit on the same issue, and those circuit court decisions do not conflict with any decision of this Court.

The two Supreme Court cases which National Advertising claims that the circuits have misunderstood were criminal cases. *Massachusetts v. Oakes*, 491 U.S. 576 (1989); *Osborne v. Ohio*, 495 U.S. 109 (1990). Those cases stand

for the proposition that where a criminal defendant makes a First Amendment challenge to a criminal statute, the repeal of the statute will not moot the First Amendment challenge.

But this case—and the host of other circuit court cases—is a *civil* case. In this situation, where a business seeks a declaration that a licensing law violates the First Amendment, the circuits have properly and uniformly held that the repeal of the allegedly unconstitutional law moots the constitutional challenge (unless there is evidence that the government intends to later reenact the law).

Because the unanimous circuit court cases involve civil challenges to laws allegedly violating the First Amendment, and this Court's precedents involve criminal prosecutions, there is no basis for granting the writ: the circuits are in agreement, and there is no conflict between the circuits and this Court. The writ should be denied.

Standing requirements and challenges to repealed laws. The federal courts may adjudicate only actual, ongoing cases or controversies. *Lewis v. Continental Bank Corp.*, 494 U.S. 472, 477-78 (1990). The case or controversy must exist not only when the lawsuit was filed, but through all stages of the case. *Id.*

The principles are frequently invoked when a party challenges a law, but the law is subsequently repealed or amended in a way that removes the allegedly unconstitutional provision. In *Diffenderfer v. Central Baptist Church of Miami*, 404 U.S. 412, 414-15 (1972), when the challenged law was repealed, this Court held that the requested declaratory relief was "of course, inappropriate now that the statute has been repealed." Similarly, in *Kremens v. Bartley*,

431 U.S. 119, 129 (1977), the Court held that "the enactment of the new statute clearly moots the claims of the named Appellees. . . ." See also *Lewis v. Continental Bank Corp.*, 494 U.S. 472.

The circuits apply these mootness principles in civil First Amendment challenges. The present case is a civil lawsuit alleging that certain laws violate the First Amendment. The Eleventh Circuit held that because the laws were amended, the constitutional challenge became moot (since there was no evidence that the laws would later be reenacted). The Eleventh Circuit's conclusion is consistent with the general principles stated by this Court. Furthermore, the Eleventh Circuit's conclusion is consistent with every other circuit court to address the issue.

The Seventh Circuit has perhaps most clearly stated the rule: "we, along with all the circuits to address the issue, have interpreted Supreme Court precedent to support the rule that repeal of a contested ordinance moots a plaintiff's injunction request, absent evidence that the City plans to or already has reenacted the challenged law or one substantially similar." *Federation of Advertising Industry Representatives v. City of Chicago*, 326 F.3d 924, 930 (7th Cir. 2003). The Eleventh Circuit has agreed:

[O]ur view of the law as to voluntary cessation by governmental actors is altogether consonant with that of every other Federal Circuit to address the issue. The federal courts of appeal have virtually uniformly held that the repeal of a challenged ordinance will moot a plaintiff's request for injunctive relief in the absence of some

evidence that the ordinance has been or is reasonably likely to be reenacted.

Coral Springs Street Systems v. City of Sunrise, 371 F.3d 1320, 1331 n.9 (11th Cir. 2004).

This principle has been followed by the First, Second, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Eleventh, and District of Columbia circuits.¹ We are not aware of any contrary authority, and *National Advertising* has not cited to any.

1. These are some of the cases in which the circuit courts have held that First Amendment challenges in civil cases are rendered moot by repeal or amendment of the law, unless there is evidence that the government intends to reenact the law: *D.H.L. Associates v. O'Gorman*, 199 F.3d 50 (1st Cir. 1999); *Lamar Advertising v. Town of Orchard Park*, 356 F.3d 365 (2nd Cir. 2004); *American Legion Post 7 v. City of Durham*, 239 F.3d 601 (4th Cir. 2001); *Reyes v. City of Lynchburg*, 300 F.3d 449 (4th Cir. 2002); *Brazos Valley Coalition for Life v. City of Bryan*, 421 F.3d 314 (5th Cir. 2005); *Kentucky Right to Life v. Terry*, 108 F.3d 637 (6th Cir. 1997); *Brandywine, Inc. v. City of Richmond*, 359 F.3d 830 (6th Cir. 2004); *Knight Riders of Ku Klux Klan v. City of Cincinnati*, 72 F.3d 43 (6th Cir. 1995); *Federation of Advertising Industry Representatives v. City of Chicago*, 326 F.3d 924 (7th Cir. 2003); *Stephenson v. Davenport Community School District*, 110 F.3d 1303 (8th Cir. 1997); *Sorano v. Clark County*, 345 F.3d 1117 (9th Cir. 2003); *Rich v. City of Ontario*, 10 Fed. Appx. 583 (9th Cir. 2001); *Seay Outdoor Advertising v. City of Mary Esther*, 397 F.3d 943 (11th Cir. 2005); *Coral Springs Street Systems v. City of Sunrise*, 371 F.3d 1320 (11th Cir. 2004); *National Black Police Association v. District of Columbia*, 108 F.3d 346 (D.C. Cir. 1997). Cf. *National Advertising Co. v. City of Fort Lauderdale*, 934 F.2d 283 (11th Cir. 1991) (overbreadth challenge not moot where city might return to original law).

National Advertising's misreliance on criminal cases to establish conflict. So the law is clear, and unchallenged: a First Amendment attack on a licensing law in a civil case is mooted by the repeal or amendment of the law, at least where (as here) there is no evidence that the government intends to reenact the law. Each of the cases which we have cited in the margin have so held. National Advertising claims that these unanimous holdings are in conflict with precedent of this Court. There is no such conflict.

National Advertising relies on two of this Court's precedents to establish conflict. *Massachusetts v. Oakes*, 491 U.S. 576 (1989); *Ohio v. Osbourne*, 495 U.S. 103 (1990). Each of these cases is fundamentally different from this case, however, as those cases involved *criminal prosecutions*.

There are two opinions in *Massachusetts v. Oakes*, which involved a criminal conviction for obscenity. The plurality opinion holds—contrary to National Advertising's position here—that because the law under which the defendant had been convicted had been repealed, the First Amendment challenge to that law had become moot. Justice Scalia's opinion, joined in part by Justices Blackman, Brennan, Marshall, and Stevens, held that the overbreadth defense was still available, but the opinion clearly focuses on the criminal nature of the proceedings:

I do not agree with Justice O'CONNOR's conclusion that the overbreadth defense is unavailable when the statute alleged to run afoul of that doctrine has been amended to eliminate the basis for the overbreadth challenge. It seems to me strange judicial theory that a conviction initially invalid can be resuscitated by

postconviction alteration of the statute under which it was obtained. Indeed, I would even think it strange judicial theory that an act which is lawful when committed (because the statute that proscribes it is overbroad) can become retroactively unlawful if the statute is amended *preindictment*.

Massachusetts v. Oakes, 491 U.S. at 585-86 (emphasis in original). *Ohio v. Osborne* followed *Massachusetts v. Oakes*, and similarly involved a criminal prosecution for obscenity.

National Advertising's argument for conflict is based upon its assertion that this Court's opinions on the mootness of First Amendment arguments in *criminal* cases conflict with the circuit court consensus on mootness of First Amendment arguments in *civil* cases. See Petition for Writ of Certiorari, at 17-18. But there are crucial differences between criminal cases and civil cases. If a person has been convicted of a statute which he or she claims is unconstitutional, then the person has the right to argue that the statute was unconstitutional when enacted and when the person committed the allegedly illegal act. This is true even if the statute is later amended to cure the constitutional infirmities. See *Kraimer v. City of Schofield*, 342 F. Supp. 2d 807, 819 (W.D. Wisc. 2004) ("As *Oakes* demonstrates, the circumstances in a criminal case are so different from those in a civil case that it would be difficult to extrapolate a rule from it that would apply to cases such as plaintiff's.").

We acknowledge that National Advertising raises some interesting points about *Massachusetts v. Oakes*. Perhaps in some future case the Court should clarify the mootness doctrine and repealed/amended laws in criminal cases

(if *Ohio v. Osborne* did not do this adequately). But this civil case is obviously not the proper vehicle for consideration of the standard in criminal cases. On the question of mootness and repealed/amended laws in civil cases, the law in the circuits is unanimous, and does not conflict with any decisions of this Court. There is no conflict, and no reason for the Court to grant the writ.

II.

The circuit court, which found the Plaintiff's claims to be moot, did not decide—much less create conflict on—the issue of the standing of those with commercial interests to raise the noncommercial speech interests of third parties

National Advertising also argues that the decision of the circuit court conflicts with other decisions on the issue of third-party standing to raise First Amendment arguments. It states this most clearly in the first and last sentences of its argument on this point: "Parties with a commercial interest in speech may raise a facial challenge to an ordinance and raise the noncommercial speech interests of third parties." (Petition, at 24). "[T]his Court should . . . clarify that overbreadth standing allows an outdoor advertising company with a commercial interest in speech to assert the noncommercial speech interests of third parties in a facial challenge to an ordinance that impinges upon First Amendment rights." (Petition, at 28).

There are many reason why this Court should not grant the writ on this issue.

First, the circuit court never addressed the issue that National Advertising claims creates conflict. The decision of the circuit court nowhere states that a party with a commercial interest in speech may (or may not) raise a facial challenge to an ordinance and raise the noncommercial interests of third parties. The district court addressed the issue, *National Advertising Co. v. City of Miami*, 287 F. Supp. 2d 1349, 1359 (S.D. Fla. 2003), but the circuit court did not. There is thus no conflict.

Second, there is a good reason why the circuit court did not address the issue in this case: the issue is entirely moot, in light of the City's change in its zoning provisions. Since the City's law has changed, the case is moot, and neither the circuit court nor this Court need to address questions involving third-party standing.

Third, there is imprecision in National Advertising's framing of the issue which it asks the Court to review. We have quoted the first and last sentences of its argument on this point, which focus on its standing to assert the noncommercial speech interests of third parties. But its Reason for Granting the Writ and Question Presented vaguely point in a somewhat different direction, and do not address the commercial/noncommercial standing issue. *See* Petition, at i ("Does an owner of outdoor signs have standing to attack on First Amendment grounds parts of an ordinance that have not been applied to it where those provisions are inextricably intertwined with other provisions of the ordinance that were applied to require removal of the owner's signs?"); Petition, at 24 ("The Decision Conflicts with Decisions of this Court and Other Courts of Appeals Regarding Standing to Challenge and Entire Ordinance Due to Inextricably Intertwined Constitutional Defects."). If the Court were to

grant review of this point, it is unclear what it would in fact be agreeing to consider.

Fourth, National Advertising's main complaint concerns intra-circuit conflict. It claims that the Eleventh Circuit's decision in this case is in conflict with its own prior decisions, and with decisions of other circuits. It refers to "disunity in the Eleventh Circuit's jurisprudence" on this issue. (Petition, at 26). If indeed there is such disunity, then the better course is to assume that the Eleventh Circuit, when presented with the appropriate case, will address the disunity, and definitively resolve the question. Indeed, the Eleventh Circuit is currently considering the third-party standing issue *en banc*, in a case where it is squarely presented. *See Tanner Advertising Group v. Fayette County*, 411 F.3d 1272, rehearing *en banc* granted, 429 F.3d 1012 (11th Cir. 2005). Where the main complaint is intra-circuit conflict, there is no reason for this Court to become involved. *See generally Davis v. United States*, 417 U.S. 333, 340 (1974). There is certainly no reason for this Court to become involved in a case where (1) the First Amendment challenge is moot, and (2) the circuit court did not address the issue. There is no reason to grant the writ.

CONCLUSION

The petition for certiorari should be denied.

Respectfully submitted,

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